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THE POLITICAL ORGANIZATION AND LAW-WAYS OF THE COMANCHE INDIANS

BY

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CONTENTS

Page

PREFACE 5

THE BASIS OF COMANCHE SOCIETY 9
  Eighteenth Century Contacts 9
  Tribal Organization 11
  The Economic Base 14

THE PEACE CHIEF 18

WAR AND WAR LEADERSHIP 21
  Coup and Status 21
  War Initiative 23
  Powers of the War Leader 24
  War Chiefs 26
  Obligations of the War Bonnet Wearer 34
  Peacemaking 35

ASSOCIATIONS AND THEIR GOVERNMENTAL ROLE 37
  Military Societies 37
  Medicine Societies 39
  The Smoke Lodge or Old Men's Society 40

IS THERE LAW? AN ANTHROPOLOGICAL HYPOTHESIS 45

LEGAL ACTIONS IN ADULTERY AND WIFE STEALING 49
  Conflicts in Marital Law and Social Custom 49
  Procedure in Adultery and Wife Absconding 50
  Intermediaries and the Champion-at-Law 59

HOMICIDE 66
  Murder and Retaliation 66
  Privileged Homicide 73
  Accidental Homicide 75

CRIMINAL OFFENSES 77
  Excessive Sorcery 77
  Individual Action During the Communal Hunt 81

RITUAL AND EVIDENCE 83
  Legal Consequences of Sorcery 83
  Forced Confessions: the Third Degree 96
  Conditional Curse 99
  Ordeal 102
  Oath 103

ABNORMAL CONDUCT 107
  Illegitimacy 107
  Incest 108
  Rape 111
  Theft 111
  Grave Robbery 111
  Suicide 112

PROPERTY, INHERITANCE AND CONTRACT 118
Land Tenure 118
Chattels 118
Inheritance 120
Contract 125
CONCLUSION 129
APPENDICES 135
Appendex A Comparative Notes on Shoshonean Law-ways 135
Appendex B. Notes on Informants 143
Appendex C. Phonetic Transcription of Names 145
Appendex D. Index to Case Histories 147

PREFACE

THE study of comparative jurisprudence is a branch of American anthropology which holds great promise for future development. A field which, for a variety of reasons, has for long remained but slightly tilled, there still is much of significance to be extracted from its fertile soil. In this day, when questions as to the nature and function of governmental and legal institutions are of plaguing importance, anything that anthropology can offer in the way of factual enlightenment should be of value. This study of Comanche Law-ways is one offering to that end. 121

The investigation of the Comanches upon which this study rests had its inception in 1933 when the Ethnology Field Study Group of the Santa Fe Laboratory of Anthropology, directed by Professor Ralph Linton, put in an intensive summer's work with the Comanches of Oklahoma. I am deeply grateful to the Laboratory, which made such an invaluable experience possible. The introduction to field work under Professor Linton's guidance opened the door to an understanding of the skill and art which successful field work requires. For that, above all, but also for permission to utilize all the materials of the group which are pertinent to this monograph, I am in debt to Professor Linton. Companions in the field whose contributions are in part incorporated in this memoir were Gustav G. Carlson, J. Nixon Hadley, Claiborne Lockett and Waldo R. Wedel. To them thanks not only for the anthropology which is theirs, but also for the good fellowship of that summer. F. Gore Hoebel participated in the field work and has been with this study from start to finish. I salute her! Karl N. Llewellyn, Betts Professor of Jurisprudence, Columbia Law School, has had an incalculable influence in the analysis and interpretation of the data. Three days before departure for the Comanche field I received a simple note. "I understand you are interested in American Indian Law," it read. "So am I. Could I talk to you?" Out of that has grown a stimulating association of the sort that is one of life's rare pleasures. 000 [114]

Dr. Jeannette Mirsky pursued an independent field study of the Comanche in the summer of 1935. She has graciously allowed me to draw from her notes. 114

The results of the Comanche study encouraged us to seek further information on the development of Comanche institutions among the related Shoshones. This was done with the aid of the Columbia University Council for Research in the Social Sciences. They financed a field investigation of the Ft. Hall Shoshones in Idaho during the following summer. This work was undertaken by F. Gore Hoebel and myself. The purpose was to investigate the general cultural background of the Shoshones and to determine, if possible, the basic legal patterns of the Shoshones for comparative reference to those revealed by the Comanches. The comparative results and inferences may be found in Appendix A of this memoir.

With the enlisted interest of the American Council of Learned Societies resulting from the findings in Comanche and Shoshone culture, the Committee on Law History set up a project on American Indian law. In 1935 and 1936 the Committee projected a study of Cheyenne political and legal institutions which was carried out by the present author in collaboration with Karl Llewellyn. Cheyenne institutions reveal much in common with those found in Comanche society, for the economic base of both cultures is similar. Cheyenne culture is more sophisticated than Comanche; less adolescent, one might say. Comparatively, Cheyenne behavior represents a higher level of institutionalization, thus providing to a degree an extension of Comanche trends. The Cheyenne materials are being prepared for separate publication.

- 121 In studying Comanche legal institutions one must proceed by means of
671 case histories. The Comanches underformalized their conception of their
153 own behavior. To them legal action was merely an individual response to a
threatening circumstance. It was not the playing of a role in a set legal insti-
128 tution. Thus the Comanches had no concept of law as an institution, or even as a set of rules. So, when the Comanche informant is asked such a question as this, "What was the rule when one man ran off with another's wife?", the answer comes in this form, "Well, I don't know about that. But I can tell you what happened when my uncle stole Horned Toad's wife." The Comanche and the case-trained American lawman proceed in like manner. What holds perforce for the Comanche should hold for the study of all primitive law. Legal behavior is *behavior* and should be treated as such. Malinowski has long since laid down the canon that behavior-in-fact is by no means in accord with the verbalized ideal to which a society may give lip-service. The verbalized ideal is an important cultural fact when such ideal exists, but the actual conduct of a people is of more fundamental count. The verbalized ideal of the Comanche is the supremacy and free action of the individual. Case histories, when piled up, show that there were limiting legal mechanisms at work, however. The liberal use of case histories in the text is not for the purpose of providing interesting anecdote. The histories hold within themselves the juice of life-situations, revealing the sway and counter-play of emotion and motive, demonstrating the broad range of variability in conduct in given situations. Case histories give the native's coloring to the report, transmitting to the reader the imponderabilia of native life which Malinowski so aptly insists be given.

imponderabilia of native life which Malinowski so aptly insists be given. 000

It was the goal of the Laboratory group to cover all phases of Coman- 114
che culture in its investigations. That that goal was not encompassed must 121
be expected. Limits of time and circumstance produce inevitable short-
comings. For the first portion of the field session, the seven members of the
group worked as a single unit in obtaining orientation in the culture and
field technique. Later we spread to work with different informants, each
investigator focussing his efforts on a particular phase of the culture. Regu-
lar exchange of material and discussion of results kept the work correlated.
Such unified effort by a number of workers overcomes to a large degree the
hampering limitations imposed by time and, as a result, did bring us closer
to our goal.

The method of inquiry was to put pump-priming questions to the in- 124
formant, who was encouraged to expound to the limit of his knowledge on
all subjects where it appeared that he had knowledge to impart. Questions
which would evoke a categorical answer were avoided so far as possible.
When it came to seeking materials on "law," the questions which I put were
designed for the most part to probe into dispute situations, since most law is
concerned with definition of conflict of interests. Due to the paucity of
published information on the Comanches, preconceptions of what to expect
were ruled out. For purposes of classification and analysis a working hy-
pothesis as to what is to be meant by "law" was worked out after the field
study had been finished. The formulation of that hypothesis is included
in this memoir so that it may be exposed to full criticism.

The data used in this work are of course all secondary. Comanche cul- 114
ture as here recorded has been defunct for fifty years and more. That a 124
certain amount of error exists in data recorded so long after the fact is
inevitable. In mitigation, however, it must be remembered that the illi-
terate Indian keeps a better vocal record than we are accustomed to do. The
effort was made to check all cases against each other through independent
informants. When contradictions appeared the cases were checked still
further until a least common denominator seemed found. Most of the cases
presented in the text are presented as given by the interpreter. We did our
best to train interpreters to translate literally. Those cases given in quotes
are presented as recorded (except for slight literary editing), while those
cases given without benefit of quotes are paraphrased to obtain con-
densation.

The cooperation of the old Comanches who were approached for aid in 186
making this study of their aboriginal culture was most gratifying. With a 124
marked historical sense and a nostalgic pride in their old way of life, they

186 124 were generally willing to cooperate to the best of their knowledge. Again and again they expressed the wistful wish that the recordings taken by the Laboratory group may find their way into the hands of their children and grandchildren. "When we are gone, and there is no one to tell them, we want them to be able to read it in the book," they said. We, the investigators, were often subjected to impromptu quizzes by the informant when we came to the end of a particularly difficult problem, so that the Indian could satisfy himself that what had been written was written correctly. The Comanches revealed a genuine desire for completeness and accuracy in the production of their ethnology.

000 Finally, the reader must keep in mind that this memoir is not a complete Comanche ethnography. I have tried to keep the treatment of all phases of political and legal problems in their proper cultural context. Even so, it is possible that a magnified picture of Comanche law may result. The reader is warned to make his own corrections for distortion by doing his best to keep the broader cultural background of Comanche society constantly in mind.

122 The contribution of the Santa Fe Laboratory of Anthropology towards the publication of this memoir has been made possible by a grant extended by the Southwest Society. The author's sincerest appreciation is extended to these two organizations and to the American Anthropological Association for their generous interest and aid in making publication possible.

THE BASIS OF COMANCHE SOCIETY

EIGHTEENTH CENTURY CONTACTS

The Comanches in the nineteenth century roved the entire southern plains as hunters following the buffalo and as warriors whose raiding parties reached down through the pueblo country deep into Mexico. But the place the Comanche called his was the territory extending from the Wichita Mountains across the plains and streams to the Red River in Texas. There was no strictly defined tribal territory, however; some Comanche camps could be found scattered among the Kiowa villages on the north side of the Wichitas. 175 [131]

Previous centuries had seen the Comanche in a more northerly location. The earliest white travelers on the northern plains in the eighteenth century had found the Comanches in great numbers on the upper Platte River and its environs. Within three generations, they appear to have vanished from this country, for their whereabouts are reported as unknown to the Americans of the times.[1]

In the southwest during this same period the Comanches had been becoming increasingly frequent visitors to the Spanish territories. In company with the Utes they committed repeated depredations on the Spanish frontier, raiding and destroying Apache haciendas, slaying and capturing Apache men, women and children. Irritated Spaniards with Apache guides marched about the country in fruitless punitive expeditions against the raiders from the north and east. By 1786, however, the Comanches were familiar enough to the Spaniards to be enlisted by the latter as allies in a campaign against the then obstreperous Apaches.[2]

The backbone formed by the Rocky Mountain chain was apparently the shielded route used by most of the Comanches in their extension southward. We read that,

> Ruxton speaks of a tradition that the Comanche and Shoshoni separated on Fountain Creek north of Pueblo (Colorado) in the edge of the mountains. Pike, Lalande, Pursely, Chouteau and De Mun, James, and other early sources, all mention the Comanche and "Snakes" as using trails in the edge of the mountains or among the mountains on their frequent journeys from the Arkansas to the Platte. One of the very early mentions of the Comanches out in the plains is in Bandalier where it is

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[1] Lewis and Clark, *A History of the Expedition Under the Command of Captains Lewis and Clark* (Philadelphia, 1878), vol. I, pp. 36–37.

[2] A. B. Thomas, *After Coronado* (Norman, Okla., 1932), p. 67; A. Chaves, *The Defeat of the Comanche Indians in 1717* (Historical Society of New Mexico, No. 8, 1906).

A. B. Thomas, *An Eighteenth Century Comanche Document* (American Anthropologist, vol. 31, 1928), pp. 289–295.

175 stated that in 1744 thirty-three Frenchmen visited the Comanches on the R. Jicarilla at the head of the Canadien; east of Taos, and traded them guns. A few years later we read in the Texas Annals that the Comanche are pressing down to Red River, forcing the Lipans into Texas.[3]

Nevertheless, Comanche contacts with the southwest and Texas were merely peripheral at this early date. Archaeology,[4] native tradition, and the evidence of cultural and linguistic analysis all combine to indicate a more northerly location for the Comanches of the seventeenth and eighteenth centuries. The Comanches are clearly an offshoot of the northern Shoshoneans.

197 The languages of the Comanche and northern Shoshone are mutually intelligible. the differences being found in slight phonetic shifts, not in grammatical morphology. Together with the Gosiute and Shikaviyam tongues of the peoples of the Great Basin, the Shoshonean and Comanche speech form the *Plateau Shoshonean* of the great Uto-Aztekan linguistic stock.[5] The Comanche speech points to a northern identity.

173 Ancient traditions of the Flathead Indians in the north define the presence of Shoshonean tribes far east of the Rocky Mountains in the territory of the upper Yellowstone and Missouri Rivers. This was for the period preceding the eighteenth century. The Shoshoneans mentioned were probably the forebears of the Comanches.[6]

174 Shoshone and Comanche legends retain the tradition of the separation. The culture of the Comanche tribe in the third quarter of the nineteenth century—the period from which the materials of this study derive—was a growth developing from the Shoshonean base under the impact of new influences met with on the Plains and in the Southwest.

First among these influences were war and the horse. Aggression from the northeast and the lure of trade and loot in the southwest drew the Comanches to the Spanish frontier, where they became one of the earliest tribes to acquire horses. By adjusting itself to a horse and buffalo economy, Comanche society attained a mobility and plentitude unknown to the northern Shoshones. Fortified with these resources and ultimately with guns, stiffened by the aid and example of their Kiowa associates with whom they ended 174 their enmity in 1790,[7] the Comanches succeeded in adopting the war patterns of the Plains with complete success. The war ideal permeated male behavior and markedly colored their legal system. Out of this matrix the Comanche brought new and significant legal forms. The society was in a dynamic state of flux; institutions were not sharply drawn, nor were the Comanches generally conscious of the configuration of their own social forms. They lived a hard, fast-moving life in a world of change, in which the individual loomed large as the important social unit.

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[3] G. B. Grinnell, *Who Were the Padoucas?* (American Anthropologist, vol. 22, 1920), p. 260.

[4] W. D. Strong, *Plains Culture in the Light of Archaeology* (American Anthropologist, vol. 35, 1933), pp. 271–287.

[5] Edward Sapir, *Southern Paiute, A Shoshonean Language* (Proceedings, American Academy of Arts and Sciences, vol. 65, No. 1, 1930), pp. 5–6.

[6] J. A. Teit, *The Salishan Tribes of the Western Plateau* (Report, Bureau of American Ethnology, vol. 44, 1928), pp. 304–305.

TRIBAL ORGANIZATION

There was no political unit which could be termed the Comanche tribe. 619 The tribe was no more than a congerie of bands held together as a peace-group by the bonds of a common tongue and culture. There appears to have been no machinery for institutionalized political action on a tribal scale. It is the present belief of the Comanches that Echo Of The Wolf's Howl[8] convened the first tribal council of the Comanches in order to debate the problem of peace with the United States at the time of the proposal of the Medicine Lodge Treaty in 1876. War between the several bands never [578] occurred, although the warriors of the Swift Stingers band joined with the United States Army as scouts in the actions against the other Comanches in the 1870's. They are still thoroughly disliked by all other Comanches.

The population of the Comanche tribe was distributed among a number 621 of autonomous bands, each loosely organized and each centering its activities in a vaguely defined territory within the Comanche country.[9]

The Comanche band, or local group, ranged in size from a single family camping alone, through the small camp of related individuals who formed a composite extended family, up to the large band of several hundred persons.

Clan organization was absent. The kinship principle was weak even within the extended family band.[10] For though groups of relatives tended to

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[7] James Mooney, *Calendar History of the Kiowa* (Report, Bureau of American Ethnology, vol. 17, 1898), pp. 162–165.

[8] A phonetic transcription of personal names used in this monograph is given in Appendix C.

[9] Mooney's estimate as to the prehistoric Comanche population is 7,000 for the year [161] 1690. *The Aboriginal Population of America North of Mexico* (Smithsonian Miscellaneous Collections, vol. 80, 1928), p. 13. In 1892 the population was 1,545. (Mooney, *Calendar History*, p. 235).

[10] Comanche kinship usages have been analysed by the author and compared to those of the Shoshone. Cf. E. A. Hoebel, *Comanche and Hɜkandkika Shoshone Relationship Systems* (American Anthropologist, vol. 41, 1939), pp. 440–457.

621 camp together, even within the large bands, the linkage of the person to the
band was on the basis of free association. Marriage was commonly intra-
band when a person was a member of a larger group, but there was no fixed
591 rule of residence. Since marriage seems to have been to a great extent with-
882 in the band, a couple lived customarily in the same group as both their
parents. Boys of adolescent age lived in small tipis of their own, to facilitate
sister-avoidance and to prepare them for vision experience. To this lodge,
which was set near that of his parents, a boy brought his wife, until a grow-
ing family necessitated her building a larger dwelling. In this and in certain
other respects, Comanche residence was semi-patrilocal. Children, as a
[611] result, usually belonged to the band of the father.

591 But, except for habituation, there was nothing to prevent change of
166 residence to another band at any time, mere whim being sufficient cause.
157 With a good deal of inter-visiting going on, temporary changes were fre-
quent. An "immigrant" simply moved in. No permission was necessary.
Under such circumstances rigorous superimposed control of the individual
in matters of ordinary concern was impossible. Conditions were favorable
for the relative individualism upon which the Comanche relied in govern-
ing his life. Mobility even provided a way of avoiding the legal consequen-
[696] ces of a wrong. In several instances we found that a culprit joined a new
band where the aggrieved might never have occasion to meet him.

621 What constituted a Comanche local group is not a problem to be settled by monistic definition. Only the larger bands received permanent recognition and a name. Thus it is not possible to state precisely how many Comanche bands there were. Mooney[11] in 1912 listed thirteen Comanche bands. Neighbors[12] in 1860 listed but eight. Lowie[13] in 1912 recorded four.

Thirteen bands were listed by the Comanche informants used in this investigation in 1933. Multiple names were used in a number of instances for a single band. These have been equated in the list given below.[14] Band names given by Mooney and Neighbors, for which no equivalents were recorded by the Sante Fe Laboratory Field Study Group, are given in the

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[11] James Mooney, *Comanche*, (Handbook of American Indians North of Mexico, ed. F. H. Hodge, Bureau of American Ethnology, Bulletin 30, vol. 1, 1907), pp. 328-329.

[12] R. S. Neighbors, *The Na-uni, or Comanches of Texas; Their Traits and Beliefs, and Their Divisions and Intertribal Relations* (History of the Indian Tribes of the United States, vol. 2, 1861), pp. 130-131.

[13] R. H. Lowie, *Dances and Societies of the Plains Shoshone* (Anthropological Papers, American Museum of Natural History, vol. 11, 1916), p. 813.

[14] Key to symbols used in the list of Comanche bands: * for names recorded by the Laboratory, † for names recorded by Mooney, ‡ for names recorded by Neighbors. Lowie gives the first four names in the list.

62

phonetic transcription as published by their authors. The first four bands listed are the largest and most important of all Comanche band units.

1.	nɔ'yɛka*†	(Those Who Move Often); sometimes called dɜ'tsanɔ'yɛka*† (Moving About Camping In Bad Places); also nɔ'koni*†‡ (Those Who Turn Back).
2.	kwɜháɹɛnə*†	(Antelope); sometimes called kwáhihɜkɛnə*† (Carrying A Sunshade On Their Backs).
3.	yápainə*†	(Eater Of yɛp, a potato-like root); also yamparika†, ditsakana†, widyu†.
4.	pέnanɜ:*†	(Wasp, or Quick-Stinger, i.e., raider); also called pɛ'natɜkə* (Honey Eater) and penande†; ho-is‡ (Timber People). This band led in the southward migration and lived deepest to the south in the Texas country.
5.	ţásipɛnanɜ*	The ţási were an Apache band which joined with a group from the pέnanɜ: to form a separate "Comanche" band.
6.	ɔtέta'o*	(Burnt-Meat), so-called because they habitually prepared more pemmican than they could consume in a winter; the surplus they threw out in the sping; other Indians seeing their dumps of dried, black meat dubbed them with this name.
7.	páhuɹaix*	(Water Horse), a band with reputedly taller and slimmer physique than most Comanches, "fast runners who always won at La Crosse." par-kee-na-um‡ (Water People), always camped near water.
8.	ku'tsuɛka*†‡	(Meat Eaters), always had plenty of buffalo meat; also noted as a band always out on raids.
9.	mu'tsanɜ*†	(Undercut Bank), from location under an overhanging cliff.
10.	wi'a'nɜ*	(Hill Wearing Away), from location of main camp between a large hill and a small one which was rapidly eroding.
11.	wɔ'ai*	(Lots Of Maggots On The Penis), also námasɜne* (Something Together), from reputed incestuous practice.
12.	pánaixtɜ*	(Those Who Live Higher), located on the high side of a creek.
13.	tɜ'sakɜnanɜ*	(Those Who Make Bags While Moving), manufactured parfleches on the march.

621 Each local group, whatever its size, had at least one permanent leader. In the small groups of a few lodges he was an outstanding person of ability and influence to whom lesser relatives and friends looked for guidance. He was the focal point of organization in their lives. The organization of such groups, so far as can be determined, was markedly similar to that which was characteristic for the aboriginal groups of the Great Basin in the days preceding white contact, as summarized by Dr. Julian Steward.[15] In the larger bands the identity of the "extended family group" was submerged in the more embracing organization of the band, but not wholly lost. "Relatives tended to camp together." Whenever the band camp was moved, the same grouping of relatives tended to find its position in the new camp by establishing its location in relation to other "groups of relatives," so that the pattern of spacing within the camp retained a certain regularity. The large bands camped and functioned as units only during the summer season of dances and communal buffalo hunts. For a portion of the year the band was scattered and subdivided. Our data are not absolutely clear on this point, but the implication is that the break-up of the band was into the smaller "groups of relatives," including, of course, the families of friends drawn within the orbit of the group. The family headmen, of which there was one for each camp-group, were the *páɹaiβo*, or peace chiefs (to distinguish them [623] from the war leaders) of the band. When the compound band was camping and moving together as a unit it then contained several peace chiefs. On these occasions the peace chiefs appointed one of their number as leader for the season, with the remainder of the chiefs functioning as an advisory council for the group as a whole and at the same time maintaining their positions as family headmen to their own groups of followers.

THE ECONOMIC BASE[16]

233 It is usual to speak of the Comanches as a tribe of hunters. Insofar as they depended primarily on game for sustenance, this is true. But it is equally true, and usually overlooked, that they were just as definitely a pastoral people. Great herds of horses were accumulated. The most notable form of [422] wealth was in this form of chattel: horses were individually owned by both men and women.

Though the horse was not a primary source of food, stories and case

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[15] Julian Steward. *Basin-Plateau Aboriginal Sociopolitical Groups* (Bureau of American Ethnology, Bulletin 120, 1938).

[16] The description of the material culture of the Comanches is a subject for separate treatment. This section is intended to serve merely as an orientation to Comanche subsistence methods.

Though the horse was not a primary source of food, stories and case histories reveal that horse meat was eaten on occasion and relished. In food-getting Comanche culture was basically a buffalo culture. [262]

As a beast of burden and as a means of personal transportation the horse had a fundamental value to the Comanche. In this respect the horse was a [492] capital good. But the single individual could not effectively utilize more than a dozen horses in his personal string for use in war and hunting.

Beyond this, horses were exceedingly acceptable as gifts and tokens of 431 esteem. As gifts given in reciprocity for services rendered and as fees to 422 medicine men, they served as an informal medium of exchange. As objects demandable in settlement of damage suits at law, they were a tangible form of material wealth endowed with legal and monetary significance.

In spite of all this, the great value of horses to the Comanche was a [554] fiduciary value of inflated worth as prestige tokens, a value rooted in socio-psychological rather than economic factors.

Though captured Mexican youths and children purchased from poverty-stricken 233 Shoshone Indians served as herdsmen, and the increase of herds 556 through selective breeding was practiced by the Comanches, the basic factor [567] in the acquisition and retaining of a large herd was the military skill of the owners. Thus it is that the possession of horses figured in the prestige competition which so constantly and vigorously activated the life of the Comanche male.

The size of Comanche herds was immense. Probably no Indians were more richly supplied than they. Upon the count of the Commissioner of Indian Affairs, the Antelope band alone surrendered one thousand five hundred horses to the United States at the time of the capitulation at Fort Sill, Oklahoma, on June 2, 1875.[17] A single Comanche, Big Fall By Tripping, is reputed among the Indians to have owned more than a thousand horses at one time.

The great communal hunts of the buffalo occurred during the summer 224 months after the seasonal moulting was done and hides were in their prime. This was the season for the in-gathering of the bands. Sporadic and uncontrolled hunting of buffalo occurred whenever they were available during other seasons.

The time of the hunt was determined in democratic assembly at which everybody was welcome to listen, but in which the war leaders took the important part. The date for departure being set, the young and able-bodied men with their women left the main camp. Children and old persons remained behind. The expedition travelled light, taking very small and undecorated tipis and what weapons and tools were necessary.

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[17] Commissioner of Indian Affairs (Annual Report, Washington, 1875), p. 273.

224 The hunt was orderly and cooperative. By custom each person was expected to follow the rules of the game, and no marshals or soldier-police governed the procedure or exercised any administrative control whatever. Just how leadership of the hunt was managed was not uncovered. That there was a leader is certain. Presumably, one of the war leaders with special hunting skill was the man who directed the manoeuvering of the band and supervised the scouts. Whether he was appointed to the directing position or merely assumed it by common consent cannot be said.

First the herd was located by scouts. Then the entire band of hunters stalked it, coming up against the wind. When within striking distance all the men lined up "to get an even start," and then all charged the animals. The main function of the simultaneous charge was to prevent the scattering of the herds by a few individuals, but equally important was the need to kill as many buffalo as quickly as possible so that they would not get overheated in longrunning. Their meat would then spoil before it could be cured.

Each buffalo was butchered by the women of the man who had slain it and belonged to the man who killed it, identification being made by means of characteristic markings on the arrows.

105 The Comanches cultivated no plants but obtained a certain amount of corn and most of their tobacco in trade with the Mexicans of the Southwest. The tacit non-interference of these same colonial Spaniards in New Mexico made it possible for the Comanche, with the Kiowa, to obtain quantities of these goods and other articles as booty in raids upon the Mexican settlements further south. From the Kiowa and Wichita, also, corn was obtained. Seeds and berries were also utilized.

The material culture of the Comanches was relatively meagre and was of the general Plains type. Families lived in buffalo hide tipis of the twenty-two pole variety laid upon a four-pole foundation, but they were also accustomed to build small brush arbors as wind and sun screens. Somewhat enlarged, these arbors serve as customary summer homes for practically all Comanche families at the present time. Various tools of stone and bone were used in their industries and as weapons of war. The war club, spear and bow and arrow served as offensive armament, while defensive armor for the horse was made of tough raw-hide plates covered with pitch-cemented sand.[15] Many warriors carried the round buffalo-hide medicine shield as well as quivers and bow coverings. Saddles, a modified Spanish type, were made by men for their own use, though in later times Mexican captives specialized in this trade. There was no pottery or weaving known to them. 105 Clothes were of finely tanned and smoked hides. The clothing of the men was mostly confined to thigh-length leggings and moccasins, both of which are distinguished for their long fringes, although buckskin shirts were also made for winter use. The women wore typical Plains Indian buckskin dresses.[19]

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[15] From the traditional Ponca account of the first meeting and early fights with the Comanche from whom the Ponca obtained their first horses. Cf., Fletcher and LaFleche, *The Omaha Tribe* (Report, Bureau of American Ethnology, vol. 27, 1906), pp. 79–80.

Decorated raw-hide boxes were used for storing the cured and pounded dried meat (pemmican), which was prepared in large quantities at the time of the fall hunt.[20] A similar box was used for storing ceremonial clothes.

Dogs were numerous in the Comanche camps. Though used as burden 231 bearers in more ancient times, the horse had displaced them in this function, so that they had lost their sole economic excuse for a place in Comanche life. Yet they held a position which mere economic utility would never have granted. Like the horse, the dog was esteemed for non-utilitarian ends. Dogs were protected because of their affinity to Coyote, that lovable and annoying rascal of Comanche folkloristic belief. No Comanche will kill a dog or coyote, because of the fear of misfortune. The thought of eating dog meat is nauseating to them. Dogs, however, were maintained as household pets, taking a very personal place in the family. In childless lodges they were petted and indulged, even to the point of being privileged to ride horse-back when the household was on the move.

The crude economic picture of the Comanches in the last century is one 105 of a tribe with a simple culture adapted to high mobility, which, in a setting of buffalo plenty and prosperity of booty derived from enterprising raiding and trading in the Spanish territories, freed the Comanches from problems of economic want. Much of the Comanche male's energy was directed toward individual aggrandizement in war and coup-counting and the maintenance of prestige within the tribe. The law picture is largely a reflection of this.

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[19] Clark Wissler, *Indians of the Plains* (American Museum of Natural History, Handbook Series, No. 1, 1934), pp. 50-54.

[20] Leslie Spier, *An Analysis of Plains Indian Parfleche Decoration* (University of Washington Publications in Anthropology, vol. 1, 1925), pp. 89-112, for a comprehensive treatment of the rawhide box and its decoration.

THE PEACE CHIEF

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> I hardly know how to tell about them; they never had much to do except to hold the band together.—That's It.

No words can better convey an impression of the position of the peace chief in Comanche society than those of That's It. The peace chief was called páɹaiβo, a term without generic significance in the Comanche tongue. Literally the title reads pa (water), plus ţaiβo (alien, or white man), and means, therefore, "water white man." The northern Shoshone, on the other hand, know the peace chief only as ţégwɔni, which given its full meaning reads, "good talk thrown out to the people," a title rich in significance. Nor could the Shoshone throw light on the derivation of the Comanche páɹaiβo, until one day one of them triumphantly remembered that such was the Indian appellation for the government irrigation supervisor! But the Comanches have no irrigation.

Comanche informants were all quite familiar with the person of the páɹaiβo, but were stumped when it came to making explicit the things he did. This is because he was no more than an older man in whom the people had trust and confidence, to whose daily advice they listened, but to whom they gave just one single definite power: that of deciding the time and place of camp moving.

The outstanding qualities of the peace chief were kindness, generosity, and wisdom. He was not of necessity a brave man; some peace chiefs had hardly ever gone to war in their youth; it was enough that he was wise and good. When a man emerged as peace chief he had become a kind of revered patriarch. To all of the band he was "father"; he in turn addressed them each as "son."

There is no way of saying how a man became peace chief. To the informants it seemed a silly question. The answer is that no one "made" him such. "He just got that way." There were no elections, no appointments to the office; elevation was by common recognition. The man the people naturally looked to for wisdom and kindly help was the man whom, less by assent than by unnoticed practice, they came to hold as their peace chief.

Trusted and revered, he was the functioning balance wheel in band life. From all accounts, he was never officious. He knew how to be absent when he was not wanted, but there were times when his judicious words in a minor dispute could bring both parties to satisfaction. Judge he was not, but arbiter at times he seems to have been. In none of the litigational procedures recorded is his presence noted, but those will be seen to be almost without exception cases in which the rule of conduct was clear. It was rather in situations where the problem was a question of what *ought* to be done that the peace chief was important. Because of his qualifications he was reputed to have the finest sense of social fitness. From this he derived a certain authority as counsellor-to-the-people-at-large. In some divorce situations he seems to have acted as arbiter and advisor. "Most likely some old man came in as advisor," though he was seldom active in this capacity. More typically, in the disposal of the huge herd of horses of the deceased Big Fall By Tripping the chief is said to have told the widow what to do.[1] That she followed his words means no more than that his ideas appealed to her as right and proper. It means no more than that his words, tailored in wisdom to the situation, appealed to her as they would likely have appealed to anyone. Under no circumstances had a peace chief the power to *order* an adjustment to be made.

It was not unusual for a "big" peace chief to have his personal herald, or announcer. In such an event, this individual served as the chief's mouthpiece in announcing the daily news and comments of the chief. Among the Comanches the chief's announcer was called ţɛ́kwɔnit, which is the equivalent of the Northern Shoshone ţɛ́gwɔni, peace chief. The Shoshone title for the chief's announcer is ţɛ́gwɔniwʌp, meaning "he who specializes in speaking." "Anything the chief says, he tells them."

According to one of Dr. Mirsky's informants, a peace chief always had two young men to serve him as aides-de-camp. "They go with him because the right kind of a chief is loved by all." These young men protected their chief at all hazards; they would give their lives to take his body from the the enemy, and it was a thing to boast of to have been chosen as body guard to a peace chief.[2]

The influence of the peace chief was limited to internal and civil matters only. No peace chief could stop a war party from taking the trail. Peacemaking was the prerogative of war leaders. Though peace chiefs were usually [728] too old to participate in active combat, they were subject to the leadership of the war chiefs in case of attack upon the band.

While it was not necessary for a man to have a war record to become a peace chief, it was not uncommon for a war leader to achieve that rank in his later years. Such was the Comanche, Red Sleeve, "a *real* war leader, also a peace chief." Of the two sons of Red Sleeve, That's It spoke with tender sentiment of Two Mountains, peace chief of the Water Horse band, "a fine, gentle fellow never looking for trouble; whatever they did, he was the

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[1] See p. 124.

[2] Jeannette Mirsky, *Comanche Field Notes*, unpublished.

624 leader of all." But it was of Two Mountain's brother, Cold, that That's It waxed enthusiastic, for Cold was a famous war chief. Of his exploits one could talk for hours. According to our information, a peace chief was a man whose raiding days were over. Dr. Mirsky was informed that some peace chiefs did take to the war path, and when they did so, established an interesting rule by proxy through the chief's wife aided by the chief's formal [608] friend in the "brotherhood bond." The reputed words of the peace chief to his announcer and to his *haits* (formal friend) would be these, "Look here, my friends, here is my wife. Pitch your tents close to hers, so that you may tell the rest of the people what you intend to do. She has full instructions. I have left all my plans with her. I want you to help her carry them out. She knows everything I want done and how I want it done—and she will tell you."[3] Such a practice would have been of most unusual occurrence. Aside from its not having been recorded in the investigations of the Santa Fe Laboratory Field Group, it does not fit comfortably into the Comanche [608] setting. It may be noted, in this respect, that *haits* were reputedly always together when one of them took to the war path.

Some tendency to hereditary succession is found in the Comanche lines of leadership. Sons of chiefs became chiefs with more than average frequency. This is not due to any established rule of hereditary succession, but results from the fact that sons of chiefs, by virute of the training and examples set by their fathers and expectancy of high standards within their families (biological factors cannot be determined), attained the qualities of the chieftain. Competition was open. Chiefship was granted on performance solely. Chiefly excellence appears to have run to some degree in paternal family lines.

The observation made on the Comanches nearly a hundred years ago by Josiah Gregg is essentially correct, "When a chief becomes old and careworn, he exercises but the 'civil authority' of his clan (sic); while his son, if deemed worthy, otherwise some distinguished brave, assumes by 'common consent' the functions of war chief."[4]

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[3] Mirsky, *Field Notes*.

[4] Josiah Gregg, *The Commerce of the Prairies* (Cleveland, 1906), p. 343; in G. R. Thwaites, *Early Western Travels* (vol. 20, pt. 2).

WAR AND WAR LEADERSHIP

COUP AND STATUS

Comanche war notions conformed to the general Plains pattern of raid- 726
ing and coup-counting.[1] The raid might be made by a party of any size, from a single warrior up. The coup was an individual exploit, made in any contact with the enemy, *after* it had been socially recognized both as achieved in fact and as worthy of distinction; a rough equivalent of an official citation after a modern engagement, if such were undiluted by political considerations.

The life of the Comanche male centered around warfare and raiding. The 721
main objectives were the taking of horses, the counting of coup, and the 556
killing of enemies. Motives for horse-taking were two. Horses, as we have 555
seen, were the important form of property accumulation; the man who had a large herd was wealthy; he could afford generosity to his friends and relatives; he harbored visiting guests from other tribes. Horses also gained him prestige for bravery and cleverness; the taking of horses under difficult conditions provided opportunity for exploits of valor. Such exploits made reputation. Horses gained by inheritance, gift, or breeding reflected the first value, but not the second (except as a carry-over). The killing of enemies was similar in that it led to prestige through accumulation of war honors; but it showed a more direct tribal function when vengeance for the death of a tribesman came in question—though tribal interest was not absent from horse-taking; to have your horses stolen was to be out-matched and shamed by the successful thief (an out-triber).

It required more bravery to hit an adversary with a spear or a war club 727
than to pierce him with a bow-driven arrow or a gun-driven bullet. Thus 555
striking an enemy gave ground for an honored coup, while long-distance killing did not. The how of the killing mattered more than the killing itself. A coup was more valued than a scalp, for, "Anybody could scalp a dead man." But the Comanche considered the removal of a scalp under fire as worthy of a coup. How much scalp the Comanche took depended on how hot the circumstances were. He preferred to take the whole scalp, but if he was pressed for time he seized only what he could get. Scalps were used in [301]
the Victory Dance and were desirable as fringe decoration for shirts and shields.

In the foregoing, and in the following, the legal analysis is deliberately 128
pushed further than the Comanche would consciously push it. In any 727

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[1] Cf. George Bird Grinnell, *Coup and Scalp Among the Plains Indians* (American Anthropologist, vol. 12, 1910), pp. 296–310.

128 727 primitive legal thinking, the fact and its legal recognition tend to fuse, and 555 either is spoken of as the whole; the modern layman, e.g., still speaks of "my money in the bank" to describe what is neither his money, nor any money, nor in the bank, but a debt the bank owes him. So with this matter of the coup. The exploit is in strictness no coup, but the new material for 727 one. If unrecognized, the exploit becomes a matter of individual memory, 555 perhaps of individual grievance. *Only recognition in due "legal" form turns deed into coup.*[2] But as soon as recognized, the recognition aspect fades from thought, and the deed that was its reason and justification *seems* to stand alone. As in all cases where legal rights are accurately tailored to the facts, it is enough to deal with the facts. But that does not mean that the legal phases can be overlooked. The minute they are lacking, or are in dispute, they will become important, and may become crucial.[3] This is the case with an exploit accomplished, unwitnessed, and not believed, or of one claimed by each of two or several as his own.

The stealing of tethered horses from within a hostile camp ranked as a very high honor, but it was not nearly so valued as striking a fallen enemy who lay near his own lines, or drawing blood from an enemy in hand to hand combat.

The Comanche honored two coups struck on the same victim by different persons. This arrangement was an efficient way of providing sufficient coups to meet the cultural demands of the society—an inflation of the currency of war prestige. The first man to reach the body of a fallen enemy struck it with his weapon and uttered the cry, "*ahé*" ("I claim it"), gaining thereby equal honor with the man who had done the killing. But if a bow or gun had been used to bring down the enemy, this second coup-counter received greater honor for his deed than did the slayer himself.

182 727 555 The problem of adjustment of institution to social end is interesting. Superficially, skill at long-distance killing would seem of more immediate social value to a fighting people. But the stress on hand-to-hand valor or dangerously close approach to the enemy is more than shallow glorification of wolf over fox. The deeds honored are in good part the kind of deeds that toughen a warrior to stand when he is needed. Grinnell, on the other hand, sees in it merely a cultural survival of the traditional days when the Cheyenne, for instance, fought perforce with sticks and stones because they had no bows or guns.[4]

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[2] Note the ritual formula for the transference of a recognized coup by its owner-performer when the coup is given to a friend as a gift. See p. 29.

[3] Cf. Ritual Evidence, pp. 103–106.

[4] George Bird Grinnell, *The Cheyenne Indians* (New Haven, 1924), vol. 2, p. 36.

Lowie emphasizes the play aspect of this phase of warfare. "Obviously," 721 he writes of the Crow, "the idea was not primarily to reduce a hostile force 555 but to execute a 'stunt'; to play a game according to whimsical rules."[5]

In addition to the standardized honors any audacious deed performed against the enemy could be claimed as a coup by a Shoshone or Comanche.

WAR INITIATIVE

The prosecution of warfare was very much a matter of individual discretion. 721 Any Comanche was theoretically eligible to lead a war party. There was no chief or power which could say him nay. Were the individual not, however, a man of proved reputation or the possessor of potent medicine, his raid would remain strictly personal and private. He would simply be unable to muster a following. Nevertheless, no one would object to his going out alone. It was quite a different matter, on the other hand, if a man whose qualities had been attested in combat let his intention to take the war path be known. All fighters who wished to do so came to signify their desire to join his party. Dreams about a successful raid were not deemed necessary [787] as a sanction for starting a war party, but in most cases such dreams were the effective stimulus.

There were two primary motivations for organizing a war party. The first was an entirely personal matter, depending simply upon desire for action, honors, or horses. Merely to feel the urge was to be at liberty to muster such men as would volunteer to go. On the other hand, a war party instigator might bind himself to avenge the death of a fellow tribesman by enemy hands. A slain man's father carried a heavy weight upon his heart while his dead son remained unavenged. "His conscience is not clear." There was but one thing for him to do. He must seek out the lodge of a brave warrior who had compassion for his suffering and whom people would trust and follow. Carrying his sacred pipe, the father or relative of the dead man offered smoke. The warrior knew what was wanted. If he accepted the pipe, smoking with the emissary, he bound himself in contract to take out a party which would not return until it had taken an enemy scalp. (We were unable to discover a single instance in which the pledge was unfulfilled.)

The warrior made known to the camp that he was going forth. He was to avenge the death of "their" slain friend. He exhorted. He said the young men would join him; he told the people that braves did not care, though it meant death. The Vengeance Dance was held before departure. The dancers were those who were going to join the war party. This sort of war party

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[5] R. H. Lowie, *The Crow Indians* (New York, 1937), p. 228.

721 never looked for horses; its object was to scalp; it turned back as soon as a single scalp was taken. The Scalp Dance was held upon the return.

Ordinarily, a man contemplating leading out a party drummed and sang war songs in his tipi. Those who wished to go came and joined him in the singing there. A war dance was held the night before departure. During the afternoon the entire party rode at a lope through the camp. They rode in a single file behind the organizer. The last horse carried two men, one of whom had performed the honorable deed of carrying a dismounted or wounded comrade out of battle-danger. No onlooker could forget this ever-present obligation, nor the public recognition to a man who had fulfilled it. The ceremony is known as the Pony Dance.

In the War Dance only braves leaving on the raid could participate; each was helped by a young girl partner. Others were onlookers.

A rendezvous outside the village had been set by the leader. During the night the warriors stole off to the gathering place. The raid was under way.

POWERS OF THE WAR LEADER

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624 The leader of an organized war party was absolute dictator of all of the activities of his followers as long as they remained in his party. With so loose and voluntary a collection of personnel, disobedience might be looked for. The invariable conviction of the Comanche is that a man never failed to do what the leader asked. It was always said that a brave leader never asked of his men what he himself would not readily do. Each knew this. Each knew, too, that to disobey might bring disaster on the party. Each did what he was told. Not a single instance of the use of force or other punishment as sanctions in the hands of the war leader could be uncovered. If a man did not trust in the ability and wisdom of the war leader he did not join the party. Once in, he was in, so long as he stayed.

So long as he stayed. Some Comanche raiding parties were gone for an entire year or more. Disaffection could and did set in in such a period of time. The solution of such difficulties was simple. The party split. The disgruntled fighter and those who sided with him withdrew to go their own way.[6] This, be it noted, is also the procedure followed when a man and his friends did not like the way in which things were being run in the band in times of peace. A man followed only the leader in whom he had confidence; he obeyed that leader to the utmost; when he lost confidence, he withdrew from that leader's sphere of influence.

The powers of the chief were (a) to determine the objective of the raid,

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[6] Cf., Case 14, pp. 68–69, below.

(b) to delegate the scouts, (c) to determine the camping places and periods 701
of rest, (d) to appoint the cook and water carriers, (e) to lay the general 624
strategy of attack, (f) to divide the booty, (g) to make a truce with the enemies, and (h) to order turning back of the expedition.

In battle, though the leader set an example of courage and daring, each man was free to fight according to the dictates of his medicine and his personal inclinations. After an engagement or a stealthy garnering of horses, the leader and war bonnet wearers covered the escape with rear guard actions.

When raiders had put two to three days of safety between themselves 727
and possible pursuers, they halted. Rest was needed. There were spoils to divide. The leader's eyes had been open to industry and willingness. He had noted or been told of the actions of his followers while in engagement. To the man who excelled, he allowed first choice of the horses. Each member of the party chose in turn according to his service as determined by the chief. The leader took his pick *of what remained.* Then the succession of choices was repeated in the same order as before. If there was an acute shortage of horses, the cook was always taken care of. A nice adjustment, this: the cook had been burdened with the meat supply. If there were too few horses, only the bravest got any return. The leader, no matter what his deeds, got nothing at all if there were not enough horses to go around; in this, as in civil prosecutions, reputation and prestige-obligation counted for more than their visible badge: horses. (It is interesting to speculate on whether this would have persisted, had a *large* herd of horses had a productive economic use as well as a prestige value.)

A reputation for fairness in dividing the spoils enhanced the prestige 624
of a war leader and gained him followers. Some men say that Quanah Parker, the last great Comanche chief, did not do this; he frequently made favorites of his relatives and took the best horses himself. Their fathers refused to go on raids with him.

If a man on a raid was killed before the horses were divided, he was 727
counted out. This is in curious contrast to the strong revenge feeling and 428
the treatment of the cook. There can be no question of any principle akin to "out of sight, out of mind." And there would normally be heirs at home. However, if the horses had already been divided and he had claimed some as his own, then, were he killed, those horses went to his heirs.[7]

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[7] The generalized principles included in the preceding paragraphs were not only given as statements by informants but were confirmed by the text of the war histories collected from the Comanches.

WAR CHIEFS

624 Although the Comanche did not attain such a clear differentiation of function and status of the war chiefs as was the case in the more advanced plains tribes, yet the influence of those tribes upon Comanche life is marked in the complex of patterns pertaining to Comanche war chiefs. The study of the Comanche was made too late to learn all one would like to know about the way of the Comanche war bonnet wearer. The information of present day Indians on this point is often vague and confusing. The use of specific [184] types of war bonnets was not a cultural universal throughout the Comanche tribe. There are indications of notable band differences.

624 565 The wearer of the full-feathered war bonnet was a person of special status in the tribe. Although not organized into an association, the wearers of the full-feathered war bonnet formed a special class. They were known individually as tɛ́kniwʌp.[8] A man joined the tɛ́kniwʌp class and was privileged to wear the bonnet by accumulation of sufficient coups, by bestowal of the bonnet as a challenge by the women, or by recovering a bonnet discarded by its owner in flight. These methods will be described.

624 The first road to war chief status is best described in the tale recorded from That's It. (Quotation marks in this and subsequent cases indicate actual transcription of informant's statement.)

Case 1. The Making of a War Chief
Informant: That's It

"The youngest brother wanted to go to war. He was a strong young man, maybe sixteen years old. It was time, he thought, to show his worth to the people.

"He went to his father, telling him of the feeling he had, saying that he wanted to go with the fighters on the raid. His father was glad that his son had such thoughts. 'It is good,' he said. 'And furthermore, my son, I will give you a powerful pony with which to meet our enemies. You shall have a good mule to ride upon the trail, for you must respect your pony. He must be ridden only in battle. Ride upon the mule and lead the pony by its halter until the proper time. When you get to the territory of our enemies it will be time. Leave your mule and get on that pony. Ride [789] him hard like you were meeting the enemy. Do this a short way and stop. Rest! Charge again. Rest once more. Do this four times, my son. Do this, and you will have a pony which will never tire. It will be a famous war pony among the people.'

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[197] [8] The word tɛ́kniwʌp, which in Comanche has come to mean "war leader," is derived from the Shoshone term for peace chief, tɛ́gwɔni. Literally translated in Shoshone this means, "good talk thrown out to the people." The Shoshonean war chief is called naβedink tɛ́gwɔni, "in war, good talk thrown out to the people." The Comanche peace chief term, páraiβo, it will be remembered, has no generic meaning in the Comanche language.

624 "When the boy did these things the people wondered, but it was as his father had told him.

624 726 "A couple of nights later they set a camp, and the leader put a scout upon the hill to look for enemies. When he got there he saw two tipis on the other side. He turned back and came zig-zagging down the hill. When the war party saw him making the signal, the fighters ran for their horses, grabbing their spears and stringing their bows. The scout came in to report to the chief. He had seen two men returning to the tipis; it seemed as though they had seen him as he turned to leave the hill-top.

"The mounted warriors were off in a pell-mell rush about the hill. They came out there in the open. Yes! There they went. Three families of the enemy were scudding away in flight—like rabbits. The women were in front. The three men were riding behind them to cover their flight. Down on them the Comanches rode. One of the enemies had a fast horse. He circled back and forth trying to keep off the Comanches. Around he came. The boy on his war pony drove at him, his spear in hand. The enemy fell from his horse dead. The other two jumped from their horses; they began shooting with guns. The young Comanche turned his pony on them; in an instant he speared them both. It was over like that. He turned then and looked about. There were the dead enemies. Way back, the Comanches were coming strung out in a line. The fast ones were ahead, but his pony had left them far behind. The first man up hit all the victims and cried, '*ahɛ́*.' The others came and took the scalps.

624 727 "It had been a successful raid, so they all turned back to the main camp. When they got there, the people held a scalp dance. On the next morning some fine young maidens dressed up like warriors. They went over to the young brave's tipi before he was awake. They did the Shakedown Dance there and sang the songs. The boy's father came out. He knew what they were there for. He was proud of his son, so he gave these girls what they wanted. He gave them two horses.

624 726 "The next time the boy went with a war party he was its leader. They were going west. When they got to the enemy territory he got on his pony and worked it as he had before. After a while they came face to face with a party of Utes out looking for trouble, as they were. There was pause while the two lines stood facing each other.

"Then the boy rode out alone, circling before the waiting Utes. The Ute chief came out and chased him back.

" 'Now,' said the youth to one of his followers, 'you do as I have just done.' Then he waited. When the Ute chief came chasing that Comanche, the young leader dashed down on him and killed him with his spear. That was his strategy. With a yell, he rode straight into the rest of the Utes. He killed two more of them—like lightning. When his fighters saw his brave example they followed him in. The Utes broke and fled. It was too much for them. Our people chased them a long way. Lots of them were killed, but the rest got away. After a while when the Comanches got tired they turned back. They scalped the dead bodies of the enemy and took what they wanted besides.

624 "The people were pleased when they got back to the camp with their great deeds.
727 They had a big Victory Dance, celebrating almost until morning. The young girls
came again to give a Shakedown Dance; the boy's father gave them three horses.

"Later on the warriors gave a Horse Dance. It was a sign they were going on a
[126] raid. The boy was with them. This time they had a battle with the Osages. The
enemy had three chiefs to lead them; they were out in front, so the young boy charged, killing them all. A regular dog fight followed. But the Osages were without their chiefs, so they could not last very long. When it was over the Comanches cut off the roaches of the Osages for scalps.

"The people gave dances just as before. This time the boy's father gave away four horses. Three years had passed. The boy was now a young man of great renown. He was a mighty fighter, a killer of chiefs.

624 "The wearers of the war bonnets held a meeting about him. They talked about the famous things he had done. It was decided the young man should be raised to the status of war chief.

"They got ready and set up a buffalo hide tipi, painted over with white clay. The people knew they were going to make a war chief of the young man. He was only nineteen years old, but he was very brave.

"They laid buffalo robes and blankets on the smooth floor for the warriors to sit upon; all was ready.

"The wearers of war bonnets were first to enter. The bravest went in first; the others followed after. They turned to the left as they passed through the entrance, walking all the way about the tipi until the first one came to the place at the right side of the door. They came in until they lined the edge of the floor. The leader sat at the west side. Then they waited for the young man.

"When his turn came he went through the door of the tipi and walked to the left until he came to a vacant space at the side of the leader. The leader got up to address the warriors. He repeated everything the brave had done, closing his speech with these words, 'This young man has done enough brave deeds. He is honorable and brave. He shall be one of us. He is as brave as any of us and we make him one of us. What is more, I honor him ahead of myself. Hereafter, he is chief in my stead.'

"Turning to the young man, he took in his hands a fine war bonnet with two
[554] rows of feathers as a special honor. Putting the bonnet on the boy's head, he said
to him, 'This is nothing but a bunch of feathers given by your friends.'

"The boy was now a war chief. Because the leader had made him chief in his stead, the young warrior walked right to the place to the north of the door and took his seat. The newest member usually had to sit at the end of the line to the south of the door, but he was the greatest fighter they had ever had.

"Then it was over. The young war leader rolled up his blanket and walked out; the others followed him."[9]

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[9] One has more than a sneaking suspicion that this story has been embellished with its portion of heroic ornament. But it was told to illustrate how a war bonnet was obtained, and that it does very well.

Post Oak Jim described the details of the process as he remembered it in 624 554 his band, the Antelope, in slightly different terms. The novice collected his own feathers—one for each coup claimed and one for each successful raid participated in. After his first four notable deeds had drawn the attention of the ṭékniwʌp class, he was nominated for ceremonial distinction. The special tipi was raised and the warriors sat as before. The candidate was invited to come to the meeting by the announcer. He sat beside the chief and was told the duties and dangers of a war leader. Then he smoked before the chief gave him four feathers from the tail of the eagle. "From that point on his rank is raised." But he did not yet wear his feathers; they were carefully hoarded until by forty-eight coups he had stripped the tails of four eagles. The feathers were then made into a war bonnet. In a second and more important ceremony it was conferred upon the fighter. He was thereafter considered ṭékniwʌp, a true war chief.

Friends could help a comrade along by transferring to him war honors 624 425 which were theirs by right. Nothing could more clearly attest both the legal and the property aspects of accorded honor-claims. The gracious act was not unusual. It was done in public in order that the recipient's right to the honor would be witnessed and duly recognized. It was considered best if the giver of the honors announced a dance, inviting all members of the band to be there. At the end of a dance the host called for a halt. Then he walked to the center of the dance ring. There, in the presence of all people, he swore before the Sun and the Earth, who had witnessed the killing of the enemy, that the deed was his. He concluded by saying, "I now give this to my brother, ——————." The man named then stood and claimed the deed, with the following words, "I now take this deed. Sun, Father, Moon above, and Earth, Mother, witness ye that it is mine. *I* killed this man." The drum was struck a resounding blow. Turning to the people, he then called upon them to recognize his coup, and the transfer was complete.

But the transfer of war honors had a wise limitation. They could be neither sold nor inherited. They might be bestowed only as a gift, in the above manner. They were given only to brave men to help them towards the war leader status, or to a peace chief who had no war honors.[10]

Even in bands in which formal installation was established, there was 624 554 also a much less official alternative open for attaining a war bonnet, though of a lower order. This was the buffalo scalp hat, which could be worn by a

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[10] Professor Ralph Linton suggests that this practice may have emerged only since the advent of reservation days, when the restrictions upon fighting, imposed by the whites, made the coup a commodity of scarcity, so that the ingenious Comanche devised the technique here described. We are unable to pass upon the question of the specific antiquity of the custom.

624 554 brave man who was not necessarily a war chief. It, too, was decorated with a row of eagle feathers. These had the breast feathers tied about the bottom of the quill and reached down to the waist of the wearer. At the top of the buffalo scalp was a bunch of magpie feathers set back on the center of the head.

554 431 In the Buffalo Eaters band such a bonnet was assumed by any brave who felt worthy of wearing one. There was definitely no ceremonial bestowal. Becomes A Middle-Aged Man, who possessed such a bonnet, says that sometimes it was the gift of friends to a brave man. One friend might suggest it to another with the result that they would gather up the feathers. A woman made them into a scalp bonnet, after which it was presented by them to the mutual friend as a token of esteem.

554 The acceptance of a buffalo scalp bonnet was a serious matter. People watched a man who took one to see if he was really worthy in his next battles. Failure meant ridicule and disgrace. Becomes A Middle-Aged Man could have risen to the rank of ţékniwʌp. He did not, because he felt that he was not brave enough. And yet this man is one (the sole survivor) of the band of six who entered the fortified corral at Fort Sill sixty-nine years ago to drive out one hundred and twenty-one horses under the very noses of the guards without being detected! When the final capitulation to the whites was made, he hung his buffalo scalp bonnet in a tree, leaving it there never again to be worn. In his words, "A man who has surrendered his freedon is not fit to wear such an honorable badge." In the old days, it was the practice upon the death of a chief to hang his bonnet in a tree where it could not be seen, so to allow it to waste away.

626 Women among the Comanches were also privileged to bestow war bonnets upon "deserving" fighters. But it was a hat which rested uncomfortably upon the head of the receiver. Braggarts, whose words spoke louder than their deeds, were neatly handled by the plotting, sniggering females. They made him a war bonnet in secret (if we only knew what kind!). When the moment was ripe, they made a public presentation with such words as these. "Here, you're such a brave fellow. You ought to be a ţékniwʌp. Surely, anyone as brave as you ought to be without fear in the face of the enemy. Yes, you deserve a war bonnet. Now it is yours to wear."

So what was Talking Bigger Than His Deeds to do? He had to live up to the obligations of that war hat, or lose it and become an "elder sister." There was a sanction!

554 701 A most special type of war bonnet was the Crow Feather Tassel (haimudya).[11] The Crow Feather Tassel was made of five feathers clipped short

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[11] The details of the haimudya complex are from information obtained by Dr. Mirsky.

except for one large one which was trimmed to scalloped edges. The wearers 554 prepared their own emblem under the tutelage of a man who possessed one. 701 They put a tassel on their left shoulder and one in their hair, taking the Crow Tassel pledge to dedicate themselves to unceasing war. There were never many such—two to four fighters in each generation. Men of two distinct backgrounds took this road of life. There were those who had the family tradition, and those who had no surviving family. For the latter the career of the Tassel-wearer was the road to death or tribal prestige. They had little to lose and much to gain. For the former it was the means of keeping high a family reputation.[12] It was the peak of all men's war activities.

The few Crow Tassel Wearers formed an intimate association. They ran in their own lonely pack. By their way of life they could not spend more than one night at any time in the camp with their people. "They were gone and gone and gone—so long that Red Young Man, who had been a young man when he first went, was now middle-aged." War was their business. If they were approaching camp ay any time, should they meet a war party on the out-path, they turned their steps—again to the enemy.

An excellent history of a group of Crow Tassel Wearers among the Comanches was given to Dr. Mirsky. Part of it follows:

Case 2. History of Crow Tassel Wearers
Informant: Talker

"While they (the Crow Tassel Wearers) had been gone all these years Red Young Man's father had died. His mother and grandmother (kaku) were living. None of the party was married. As they came to the camp look-out, this man told Red Young Man that his father had died not a year since. Because of this the men cancelled their plans to parade; they entered the camp quietly—without fanfare or pomp.

"That night his friends, the Tassel Wearers, came to see him in his tipi. They mourned and wailed with him for his father. When they had ceased crying, his mother spoke, 'Now that I can see you, it makes my heart heavy that you have taken up this role. I have not seen you for many years. You were young; now you are a grown man. And I hope you will agree to what I propose.' Therewith, she begged him no longer to wear his emblem of the Crow Feather Tassel. Would he honor her wishes? 'You have put in time enough to have had your fill of it,' the mother urged.

Our informants spoke vaguely of certain men who went continuously to war, who were a "stage beyond the war bonnet." We found no one who could give us facts, however.

[12] It reminds one of those American lineages who glory in a record of participation in every war of our country's history.

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"Red Young Man turned to his friends and said, 'You have heard the request of my mother. To it I now agree. After you eat—all of you—bring your fathers here.'

"They did as he asked; they brought their fathers to his tipi. Red Young Man said to the fathers, 'You are all familiar with what we have been doing—you know our rules. Look upon us all! My father did not live to see me. I missed him. I have called you here because I have something to say to you. I entered this order when I was young, when I was without ties. These friends joined me under the same circumstances.'

"A father said, 'You speak truly.'

"In this group of young men was Red Young Man's nephew (aɪa), whose father was Red Young Man's brother-in-law (tɛts). The brother-in-law said, 'My wife's brother, you have been in this from your youth; now you are of middle-age. Even so is your nephew, my son. I speak as your mother spoke. I wish both of you would discontinue this. This is my opinion and desire.'

"The father of one of the others agreed with the mother and the brother-in-law. The father of the youngest put in his word for it, too—'because we are so happy to have you back after so many years.'

"Then Red Young Man said to the fathers, 'Today, at this very instant you finish with us, we will take off our tassels. We will disband forever. Before we come to that I wish that you well-seasoned men of wise counsel would give us your advice and blessing. That is all. Let us fill our pipe.'

[788] "They filled the pipe to bless the dissolving of the band. There was silence as the pipe was lit. The brother-in-law took the pipe; he presented it to Sun, the Father and to Earth, the Mother. 'Accept this, Father,' he said, 'today in a few moments these young men shall be broken asunder.' He passed the pipe to the next father who did the same and said the same. Then to the third father. He finished the prayer with these words, 'They have devoted their whole youth to this cause. Now that they are middle-aged they are going to lead a quiet, stay-at-home life.' They did not pass the pipe to the mother—but she spoke and voiced her happiness at the outcome of the decision.

"Red Young Man spoke again, 'We have come to dissolve,' He speared out a black kerchief. 'We are going to take the tassels from our shoulder and our head.' He prayed. He prayed, saying how in his youth he had followed the dictates of his heart—a Crow Feather Tassel Wearer. He had lived alone without regard to family ties. The Great Power Which Pervades All Things be his witness! By taking off the emblem he was now ready to devote himself to family obligations.

"He then called his nephew. 'We started out with only one thought, you and I: that we would be killed together. I, who put this emblem on you, now take it off.'

"Then he called the older friend to do the same with him. At last he called the younger one. 'Behold our younger brother (tâmi), who tirelessly performed all the duties we placed on him! You be witness that I take from him his emblem.' All the tassels were laid on the kerchief.

"When night came the obligations were done. Then Red Young Man tied up the kerchief. He said to the father, 'Tomorrow we do what we have not yet done

with you: we will stay with you all the day and for the rest of our lives. By morning 554
everyone will know what has transpired.' He took the bundle with the Crow Tassels 701
and put it by his bed.

"He started out next morning from the tipi carrying the bundle. You never bury anything of which part is a feather. You return it to a tree and tie it there. Thus was ended Red Young Man's war career.

"Red Young Man never again went with a war party. He became a camp-moving peace chief; he confined himself to his home duties. When he took off his tassel and put on his war bonnet, he became the highest war chief. When visiting tribes came to call, everyone would hold their breath when Red Young Man counted coup. He was the pride of the band.

"As time went on, he finally married. He married his own niece, his sister's [582]
daughter. Though he was so very great and so important, he did not escape being slightingly referred to as 'niece-wife.' The talk was that that wife had been loose before he married her, so he married her to make her behave. She was young and pretty. It was her first marriage and they had children."

In this practice the social ideal was exaggerated to social negation. The 554
Crow Tassel Men pursued the war goal with such singleness of mind and purpose that they were no longer of the larger society. Thus during the period of their calling they were of little significance in civil affairs. Yet when years of success without death, or the death of one of their membership, caused them to dissolve the band of special comradeship and warlike duty, they became leading men in the community by virtue of their prestige.

The Crazy Dogs and the Big Horse Owners were also limited groups 701
among the Comanches. The Crazy Dogs arrived at their state by an intrinsic waywardness in personality. The Big Horse Owners chose their road as a way of life for much the same reasons as motivated the Crow Tassel Wearers.[13] "I might make many errors and fall down many times," said Black Horse on taking up the insignia of the Big Horse. "I shall take my father's road, and maybe I'll come out a somebody."

The Crazy Dogs were contraries. They did everything backwards. Tell 701
them to bring water, and they would fetch fire. She Invites Her Relatives 158
told of a widow who lamented her lot and her lack of a buffalo robe. A Crazy Dog heard her. He told the old woman to hold her peace; he would get her a robe. When he returned to camp he brought with him the skin of a flayed enemy. This he hung from a pole before the widow's door. Such men were a great nuisance. They urinated like dogs. Going about the camp they could

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[13] It is difficult now to distinguish what traits belonged to the Contrary Men and what to the Big Horse Owners. Among them were a gourd rattle as insignia and a slit sash worn over the shoulder. In attack the sash was pegged to the ground, so that the wearer could not retreat unless released by another Comanche.

701 shoot an arrow into anybody's pot of meat, taking whatever piece stuck to
158 the shaft.

Parents warned boys who were constantly recalcitrant that they would become such. Most Crazy Dogs started out as wayward youths.

Such men carried on as Dogs until after the performance of some conspicuous act of bravery. After many years of Crazy Dog activity, their rattles were taken from them by a respectable middle-aged man (ţénapa).
[555] "They had attained prestige and could leave off their antics." By their war records ex-Crazy Dogs were always men of importance in the tribe.

624 It is clear from these facts that the war bonnet and other special insignia served a definite social function in Comanche society; they marked
554 the status of the war chief as distinct from that of the lesser war leader, and the special devotees of the war cult from the common warrior.

OBLIGATIONS OF THE WAR BONNET WEARER

554 The Comanche owner of a war bonnet was under obligation never to
726 retreat. This was the primary duty assumed with the status. The bonnet was a symbol of tribal integrity and honor to the Comanche, to be protected at all costs. The mere fact that the wearer could not retreat made him a rallying point for all other fighters when he was hard-pressed, for it was equally disgraceful for the bonnet to fall into the hands of the enemy should the wearer be wounded or killed. The war bonnet wearer, dismounted and hard-pressed, could indeed be rescued by a fellow tribesman who dared to risk dashing in to carry the brave off on his horse. This was the sole escape with honor. In one fierce three-day battle with the Utes, a Comanche war chief was so wounded in the leg that he was having difficulty. Another ţékniwʌp mounted behind him and held him in his place on the horse while he fought off the enemy. The Utes forced the Comanches back and ever back over a battle-field sixty-five miles long. When, during the action, the wounded war chief died, he was tied to the saddle by his protector to avoid his being captured with his bonnet. During the entire fight his body and its protector were screened by a group of fighting braves.

558 On the other hand, it was the absolute duty of a ţékniwʌp to help a dismounted comrade. Should he fail to do so, any other war chief who observed his disloyalty could publicly upbraid him with the act and take the war bonnet from him in punishment. The accuser was then free to offer it to some other warrior whom he thought deserved it.[14] But this man was also free to refuse if he feared the obligations attached to it. This was said

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[14] Compare also the case cited on page 55, where a claimant to a piece of land (on the reservation) had the judgment go against him because he had one time failed to rescue a comrade.

to be the way it was done, though no case describing such a situation was 558 collected.

A war chief whose nerve failed him in a dangerous position *could* retreat—by giving up his right to wear the bonnet. He could cast it off and flee for his life. But he was a man without status thenceforth, for he could never again regain the bonnet and its rank. Life certainly would have been miserable from that point onward. Men hailed him as "elder sister."[15]

But what a chance this disaster opened for an ambitious brave to gain 555 the war leader's status in one stride! He could dash into the danger spot 726 to pick up the abandoned hat with his spear or bow. Turning his horse, he would bring it back and put it on a pole behind his lines. If the fight still continued when the sun was about to set, he then went to the pole and put on the hat. Thus arrayed he charged the enemy four times and struck an adversary on each foray. If he was successful in this and came through alive, the hat was his with all the privileges, honors, obligations and dangerous duties which went with it. This was the practice in the Those Who Move Often and Antelope bands. The lower rank war bonnet could be picked up by any one who saw it and was willing to assume the obligations adhering thereto. For it, the use of the bow or spear was not necessary, according to Becomes A Middle-Aged Man.[16]

PEACEMAKING

The waging of war was a matter of individual initiative, but the making 728 of peace was a prerogative only in the hands of the war chiefs. A war 624 leader on a raid could make peace in behalf of his own raiding party on his own authority. Such a peace, however, had no binding effect upon other members of the band and not at all upon the tribe. Band peace was made only upon unanimous consent of the warrior class, i.e., the meeting of the ṭɛ́kniwʌpnə. The historical making of peace with the Kiowas has been noted on page 12. All Comanche bands agreed to this with the result that it has remained unbroken since 1790. A permanent peace with the Cheyenne was effected in 1840.[17]

Relations with other tribes were more in the nature of truces than peace,

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[15] According to a generalized observation by Neighbors (*The Comanches*, p. 130): "He is deprived of his office by any misfortune, such as loss of many men in battle, or even a single defeat, or being taken prisoner, but never for any private act unconnected with the welfare of the whole tribe." It is not so much that he was deprived of his office, as that he no longer could gain a following.

[16] The above rules are formulated principles for which no histories in action were obtainable.

[17] The Comanche version of the details of this occasion is lost. Its setting in the Cheyenne picture will be included in the author's forthcoming study of Cheyenne Law-ways.

728 however. A good example at once of the role of intermarriage and of the
624 power of the war leaders is found in the story of a Ute-Comanche peace which was engineered by a woman.

Case 3. Peacemaking With the Utes
Informant: That's It

"A Ute woman who had been captured by the Comanches was with a band who were fighting the Utes. Her son was a Comanche brave and she feared for his life. Finally she rode out between the fighters and held up her hand calling for them to stop. She said she was on both sides; she a Ute, her son a Comanche; it was not good for them to fight.

"A Ute chief rode up. The woman wanted to shake hands, but he said, 'No, not until I know if your chiefs sent you.' At this time her son rode up. He was a Comanche war chief. He said he was willing for peace, and he got the others to agree.

"They stopped fighting, and the Utes camped on one side of a hill and the Comanches on the other side. That day some Comanche hunters were coming back to camp and they didn't know about the truce. On the way they killed and scalped a Ute and felt pretty good about it. They were expecting the Comanche camp to be at that hill so they rode into the Ute camp by mistake, singing the Victory Song and swinging the scalp. But the chief of the Utes wasn't mad. He said, 'That's all right. We are at peace and you did not know it. We do not get mad.' Then the Comanches went over the hill and found their own camp.

"That night the leader of the Comanches went over to the Ute camp. He told them that since a Comanche was killed in the first attack, things were even and there shouldn't be any trouble.

"After that a council of ten Ute chiefs called at the Comanche camp to visit the Ute woman. They discovered that she was the sister of one of the ten chiefs. They made her a special honor; they took her back to the main Ute camp where her father and mother were still living. They gave her a tipi with an antelope skin tied to the top of a pole for a special sign.

"Later on there was trouble again and they had more fighting with the Utes."

ASSOCIATIONS AND THEIR GOVERNMENTAL ROLE

MILITARY SOCIETIES

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Professor Lowie in seeking for germinal sources of the state other than the kinship factor has given a new importance to the study of associations. The warriors of many Plains tribes were organized into a series of fighting *Verbindungen* variously identified as clubs, associations, societies and bands. In Professor Lowie's book, *The Origin of the State*, it is demonstrated for several peoples how associations of various types may take on governmental functions and powers, thus giving form to the state idea. He has made it impossible for the modern student of the primitive state or pre-state to overlook associations, whether as governmental agencies or pressure groups.

Two paragraphs sum up Lowie's exposition.

> With amazing uniformity as to detail the police functions just described have been recorded for a dozen and more tribes and for a period of two hundred years. Personnel of the constabulary varies with the tribe; the duties may be linked with a particular society (Mandan, Hidatsa), or be assumed by various military societies in turn (Crow), or fall to the lot of distinguished men without reference to associational affiliations (Kansas). But everywhere the basic idea is that during the hunt a group is vested with the power forcibly to prevent premature attacks on the herd and to punish offenders by corporal punishment, by confiscation of the game illegally secured, by destruction of their property generally, and in extreme cases by killing them.[1]
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> In other words, for the brief period of the hunt the unchallenged supremacy of the police unified the entire population and created a state "towering immeasurably above single individuals," but which disappeared again as rapidly as it had come into being.[2]

In a recent article (1936) appearing in the AMERICAN ANTHROPOLOGIST I raised the question of the probability of more permanent state-like activities accruing from the power of associations as discussed by Professor Lowie.[3] There I showed from case histories taken from the Cheyennes that for that tribe, at least, the military societies had become an ever-ready arm of the state functioning on many occasions aside from the exigencies of the buffalo hunt. Where the Cheyenne go beyond the practices described by

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[1] R. H. Lowie, *The Origin of the State* (New York, 1927), p. 103.

[2] *Ibid.* p. 104.

[3] E. A. Hoebel, *Associations and the State in the Plains* (American Anthropologist, vol. 38, 1936), pp. 433–438. Additional Cheyenne data acquired on a subsequent field trip provide an even more effective demonstration of this point. They will appear in the author's forthcoming discussion of Cheyenne Law-ways. Llewellyn and Hoebel, *Law-ways and the Cheyenne Indians* (in press).

114 121 701 Lowie, the Comanches fall far short of them. The Comanches were unlike other tribes of the plains in that they possessed only the slightest trace of organized military fraternities.

114 701 Twenty-five years ago, Professor Lowie recorded the presence of warrior societies among the Comanches. From one informant he learned that the fighters were organized into companies in time of war, their groups being known as the Crow, Fox, Drum, Big Horse, and Little Horse. How they functioned is not noted. Lowie also recorded that certain dances were linked to specific bands, stating that the Crow dance was exclusive to the Yɛp Eaters, the Horse Dance to Those Who Turn Back, and Swift Fox Dance to Those Who Turn Back and the Swift Stingers.[4] But whether the men who performed these dances were formed into "regiments" or military associations as were the Arapaho dancers,[5] Lowie's material fails to make clear. Because of the contiguous distribution of such dances linked with definite orders in the Plains tribes to the north of the Comanche, it is possible that they were so organized.

114 175 619 A recently published Spanish document from the eighteenth century presents a diagrammatic sketch of a Comanche contingent allied to a Spanish expeditionary force. The tally strokes representing the individual Comanche warriors are grouped into five separate units. Before each group of tallies stands the pictographic representation of a man, beside whom is an inverted spear with a crooked butt. This tally sheet is an official record of the Comanches who engaged in the Spanish expedition against the Apaches in the year 1788. A. B. Thomas, who reported and translated this document in the AMERICAN ANTHROPOLOGIST,[6] suggests the possibility that the segmentation of the Comanches in the tally is in accordance with the dance societies which possibly existed in the tribe at the time. The third enclosure (*noticia*), which is embodied in the Spanish report, is a list of the Comanche chiefs and the number of lodges joined to each chief. The Spanish list of the five groups and the chiefs who headed them identifies the chiefs by bands. These bands are given as *Cuchanec*, or *Cuchantica:* Buffalo-eaters (cf. no. 8, p. 13, *Ku'tsueka*); *Yupe, Yupinis* and *Gente de Palo:* Timber People (cf. no. 4, p. 13, *Ho-is*); *Yamparica* (cf. no. 3, p. 13, *Ya'pain*). These are three of the great Comanche bands—the very three which, according to modern Comanche tradition, led in the southward migration. The band membership of the

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[4] R. H. Lowie, *Dances and Societies of the Plains Shoshone* (American Museum of Natural History, Anthropological Papers, vol. II, 1916), pp. 809–811.

[5] A. L. Kroeber, *The Arapaho* (American Museum of Natural History, Bulletin No. 18, Part 2, 1904), pp. 151–229.

[6] A. B. Thomas, *An Eighteenth Century Comanche Document* pp. 289–298.

chiefs listed in each particular group is fairly homogeneous within the group 114
but not wholly so. The size of each group varies greatly in the number of 175
chiefs identified with the group. The number of lodges "under the command 619
of" each chief varies from six to one hundred. A note by the Spanish chronicler explains that "there may be computed about three men of arms and from seven to eight women and children" in each lodge.[7] In the first group, twelve chiefs with three hundred and sixty-six lodges are listed. In the second group, but two chiefs with fifty-six lodges are listed.

In all the systems of military societies of the Plains Indians for which we 114
have truly reliable data, the number of officers for any society never exceed- 701
ed seven. Usually the officers were limited to four to a society. Furthermore, the warrior societies did not camp as units (excepting the Dog Soldiers of the Cheyenne). The presence of women and children in the lodges of the camp indicated by the notes accompanying the tally sheet, and the unevenness of the number of chiefs in the group, along with the variable number of lodges under the jurisdiction of the numerous chiefs, indicate that the groupings are band groupings and that the sub-chiefs with their lodges are simply the heads of the extended family units within the band (as described on page 14 above). The document in question does not supply adequate evidence of the existence of military associations among the Comanches.

Only one of the Comanche informants consulted in this study made reference to warrior societies. These White Wolf called "regiments." He was unable to give any specific information concerning their organization or functioning, however.

The tenuousness of the historical data and the paucity of material recorded by Lowie, when combined with the ignorance of present-day Comanches on the subject of military societies, all indicate that the societies were not a developed and integrated part of Comanche culture. Therefore, they could not have played an important role in social control and government.

The small groups of Crow Tassel Wearers and Big Horse men, by virtue of their being continuously at war, could not play a role in the give and take of everyday life in the community. Hence they, too, were of little direct significance in social control.

MEDICINE SOCIETIES

Evidence is found of small and limited medicine societies among the 756
Comanches. Possessors of beaver medicine and eagle medicine of a particu-

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[7] *Ibid.*, p. 295.

756 lar formula formed separate societies. Possibly there were others, but they were not discovered by us. The members of a society carried shields each painted with an identical pattern and all followed the same medicine prescription and possessed the power in common.

The membership of a society was limited—in one case to six, in another to twelve members. Perhaps it was felt that the inclusion of more persons diffused the power so as to weaken its efficiency, or perhaps the six and double-six had peculiar meaning; no society numbered more than that.

As special interest groups we must suspect that they had their ways of exerting social pressure. But in a culture which is now so much a thing of the past, the medicine societies being limited in size and apparently having no governmental import, they have left no clue as to what subversive or other means they might have evoked to satisfy their own particular personal, group, or political ambitions.

THE SMOKE LODGE OR OLD MEN'S SOCIETY

575 887 Old men who no longer went on the warpath had a special tipi wherein they foregathered at the ending of the day to smoke and talk small talk. This was the Smoke Lodge. It was thoroughly a men's club, an old men's club; no boys or women were allowed to enter. Initiatory rites were not held for new members; when one became old and venerable enough to be satisfied with mellow, reminiscent talk, he just started going to the meetings and was free to come and go as he wished. We have no record of invitation or of rebuff to a new arrival.

When the band was stopping for only a short time at a camp site, the old men did not raise their tipi but were content with simply pressing down a circular spot in the weeds apart from the camp for their Smoke Circle. [361] When the village was more permanently located, if the camp plan was in the crescent form, the Smoke Lodge was raised near the middle; if the tipis were laid out in a row, the Smoke Lodge was said to have been set up to the south and east of the line.

575 887 782 276 Though the group was informally organized, each evening's session was opened with a ritual. The lodge possessed a large common pipe which was in the care of its leader.[8] While the lighting of the pipe was in process, there was tabu on spoken words. Absolute silence prevailed. Next to the tipi door, to the right as one entered, sat the fire-tender, a captive Mexican. Opposite the door, in the usual place of a head-man, was the lodge leader with the

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[8] We were unable to determine how the leader obtained his pipe, whether it was a special pipe which gave with it the leadership, or whether the leader emerged in the manner of peace chiefs and supplied his personal pipe for the usage.

pipe. When the time for smoking had arrived, the leader ordered the fire 887
built up. In the light of its blaze he filled the pipe. The next step was invo- 575
cation. Holding the pipe to the sky, offering was made to the Sun. This done, 782
a pinch of tobacco was taken from the bowl and laid upon the ground—an 276
offering to the Earth. If at any stage of this process the silence was broken, it was necessary to make a fresh start by dumping all the tobacco from the pipe out on the ground and starting anew. Informants did not know of any consequences being visited upon the breaker of the tabu. When finally the pipe was prepared, the fire-tender crossed directly over to the leader and tendered a live coal. With the issuance of smoke the ceremony was done and the old men could lapse into their round of conversation. The pipe was passed among them and carefully smoked until it was burned out. Then after a bit, the refilling and lighting ceremony was again solemnly performed and they were ready for another round of talk. Four times they filled and smoked the pipe out; then they broke up for the night. The fire-tender made first exit through the door. The others followed after in procession, all treading around the tipi to the north. But during the course of the evening a man could make non-ceremonial exit from either side of the door.

The talk turned on matters both amusing and serious; the old men were 575
eclectic in their interests. On occasion they made an amusing turn on such 887
coup-counting bouts as Grinnell reports for the Cheyenne.

> . . . the two bands were ranged on opposite sides of the lodge, facing each other 521
> . . . When all were ready to begin, he (the umpire) passed a counter to the man sitting at one end of the line. The counter passed from hand to hand until it reached one who had done this thing, when he narrated the circumstances, perhaps mentioning the name of some witness to the deed. . . .
>
> . . . When the coup had been related, the stick which had been passed for it was returned to the umpire, who thrust it in the ground with his right or left hand, according as the winning was by the party to his right or left. . . . Whichever side had the most sticks received a feast the next day from the losing side.[9]

The old Comanches, too, held meetings to decide supremacy among [554]
them. A handful of straws served for tally. Straw by straw, the old stags put in the evening asking each other questions of dishonorable or evil-scented nature. "How many times have you been divorced?" "How many times did you turn back from the war path without meeting the enemy?" was another favorite. Or, "How many times did you take a woman on a war party?" And so on into the night. This interesting game is unquestionably a travesty on coup-counting bouts of the Plains Warrior Societies. The

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[9] Grinnell, *The Cheyenne Indians*, vol. 1, pp. 78–79.

575 travesty is a burlesque of the values which were held dear by the younger
887 men who were still actively engaged in war and the ego-maintenance
521 competition. As sorcery may be looked upon as one weapon of revenge used by the old men,[10] so the burlesqued coup counting may be interpreted as an equivalent compensatory mechanism.

Comanches of warrior age did not engage in coup-counting bouts in the manner described for the Cheyenne by Grinnell.

575 In a more serious way, the Smoke Lodge functioned as a trading post for
887 gossip and ideas among the old men, much as did the general store in old
626 New England and rural America.

Concerning matters of general tribal moment, the old men expressed their thoughts and apparently made them known to the public by letting the peace chief know their concensus. Their influence was advisory; it was designed to sway public opinion, but without direct power to mould public policy. Post Oak Jim properly tagged the old men in the Smoke Lodge by explaining, "they were just like a Chamber of Commerce." They could make talk and mayhap make opinion, but they could make no law. In some bands, however, they could definitely help the peace chief determine the time of camp moving.

That the old men in general, as did the peace chiefs in particular, acted as soothers of ruffled tempers, pacifiers of internal dissension, is well attested. It was an important factor in the totality of social regulation. And let it not be forgotten that in this role they were just as important in keeping disputes from reaching the breaking point as is the authorized guardian of the law in more complex societies. The chances are that they were more so.

575 In later days, the Smoke Lodge in the Antelope band became the butt
887 of a pair of mischievous pranksters. Originally there was no foolishness, and the old men were respected. But two boys, Leader, and his pal, Through, were without respect or restraint. How the old men responded to their indignities is revealing.

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[754] [10] The role of sorcery in this respect has been nicely phrased by Professor Ralph Linton. "There is abundant evidence that among the Comanche the transition was often a difficult one for the individual. Warriors did not prepare for old age, thinking it a better fate to be killed in action. When waning physical powers forced them to assume the new role, many of them did so grudgingly, and those who had strong magic would go on trying to enforce the rights which belonged to the younger status. Such bad old men were a peril to young ones beginning their careers, for they were jealous of them simply because they were young and strong and admired by the women. The medicine power of the young men was still weak, and the old men could and did kill them by malevolent magic. It is significant that although benevolent medicine men might be of any age in Comanche folklore, malevolent ones were always old." Ralph Linton, *The Study of Man* (New York, 1936), p. 121.

The first escapade of these young hoodlums was to back a colt half way 575
through the door of the Smoke Lodge while the pipe-lighting ceremony 887
was in progress. The old men did not utter a sound of protest—the tabu 522
enjoined silence! Not content with this, the boys tickled the pony with a stick and caused him to kick wildly, upsetting the old men within. "He tore things up pretty badly." First mention of this stunt was made by Post Oak Jim. The boys were sons of his uncle and so his classificatory "brothers"; he thought they were very funny indeed. He shook with reminiscent chuckles in recounting the story. That's It remembers the incident too, and also considers it a fine joke.

But the old men, says That's It, were "awful sore." They began heatedly to discuss what should be done to the young men when they caught them. They were trying to figure out "what law they should give them." Here was an unprecedented situation—an undoubted grievance. A demand had arisen for a decision of policy. A social rule forced to consciousness by its breach, an explicit sanction was in the making—perhaps even a law. And the outcome? In the midst of the argument one old man spoke up.

"Now you old fellows," he addressed them. "You, too, were boys once. When the sun was shining in the sky, you were mighty nice. When the sun went down and the darkness came, you were devils. Don't you remember how *you* were? Boys will be boys."

They listened. They all thought about how they had behaved. When they thought about it, they all laughed—and let the matter drop. Even when they themselves were the aggrieved, the old men could serve as peace-preservers.

That's It, in thinking it over, did not know what kind of punishment [689]
they would have given the boys if they had gone on in the matter. That was a point that the old men had not decided. That's It had no precedent by which to predict their probable action. One step he was sure of. The old men would have gone to talk to the boys' parents.

If the remainder of Post Oak's story is true (it was not checked with other informants), the failure of the old men to take action against the boys on that first occasion marked the end of their venerable comfort. Subsequent misdeeds perpetrated upon their old heads included the throwing in of a skunk during the pipe-lighting ceremony, with the result that the smokers were driven from the lodge. On another occasion the jokesters slashed the robes which the members had left outside the tipi. They smeared soft feces on the gound by the doorway and covered the mess with a little dirt. The members, who had to remove their moccasins before entering, stepped into it barefoot. These and other indignities they heaped on the

522 575 887 heads of the forebearing elders. Indeed, boys will be boys. And peace-making may on occasion father trouble.

575 887 182 One is forced to wonder if youth would have dared such action before the days of white contact. Was this a sign of cultural disintegration? One suspects so. One cannot give a definite answer, but against the generous indulgence always shown to boys by the Comanche elders, there is to be put the fact that the Smoke Lodge was one of the first Comanche practices to go after white contact. Old men died off. The rising generation did not carry on the practice. The effrontery of the boys may have been a sign of its weakening hold. And in any going culture one may expect the normal human reaction: that what on one occasion may be a joke, an escapade, or a licensed blowing off of steam, will on sufficient repetition become a nuisance or an outrage and be dealt with as such.

565 In this survey of associations we have observed that the division of Comanche society into compartmental groupings had not gone very far. Age classes were lacking. The old men in the Comanche Smoke Lodge formed a sort of Council of Elders, but they were not taken too seriously, nor their opinions held to be law. Military groupings were too embryonic to have left their mark; medicine societies were largely lacking in demonstrated legal significance. Where groups did enter into the legal complex we shall see that they were formed about the kinship and friendship bond.

IS THERE LAW? AN ANTHROPOLOGICAL HYPOTHESIS

We are now ready to address that most vital problem related to social 671
conduct: What are the techniques for adjudicating grievances and conflicts 121
of interests? The practical absence of a recognized authority makes the machinery relied upon by the Comanches just that much more significant for the student of jurisprudence and social control. Here we are confronted with legal patterns which are more than mere custom, with norms as to which there is no binding force of hypertrophied reciprocal obligations as in Melanesia, norms which exist without the sustaining force of courts, or police, or other expression of state sovereignty. Since sibs were lacking and associations nearly so, there were no permanent organizations which functioned as equivalents of what we know as government.

No prevailing concept of the nature of law as given in current definitions will fit the facts as we find them in Comanche society. The ideology of orthodox political science and jurisprudence, expressed in terms of "commands of the sovereign," "rules of the state," "an obligation imposed by the law-maker" have no meaning here, nor in the data pertaining to most primitive societies. Not even so sociologically oriented a definition of the law as that advanced by the late Justice Cardozo serves to fit the needs of an anthropological approach to jurisprudence. For when he writes that a principle or rule of law is "a principle or rule of conduct so established as to justify a prediction with reasonable certainty that it will be enforced by the courts if its authority is challenged,"[1] we must conclude: "no courts; no laws."

Professor Malinowski's "anthropological definition of law," to wit, "civil law, the primitive law governing all the phases of tribal life, consists of a body of binding obligations, regarded as a right by one party and acknowledged as a duty by the other, and kept in force by a specific mechanism of reciprocity and publicity inherent in the structure of their society," is really so meaningless from a legal point of view as to be useless in the development of a comparative jurisprudence.[2]

In Comanche society reciprocity is not developed to an exaggerated

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[1] Benjamin Cardozo, *The Growth of the Law* (New York, 1924), p. 52. Compare also MacIver's "Law is the body of rules which are recognized, interpreted and applied to particular situations by the courts of the state." R. I. MacIver, *Society: Its Structure and Changes* (New York, 1932), p. 272.

[2] Bronislaw Malinowski, *Crime and Custom in Savage Society* (New York, 1926), p. 58. For the debunking of Malinowski's *Crime and Custom* see William Seagle, *Primitive Law and Professor Malinowski* (American Anthropologist, vol. 39, 1937), pp. 275–290.

671 degree, so that Malinowski's approach is even less applicable here than it
121 might be elsewhere.

Without courts and without strongly developed obligations of reciprocity to serve as criteria of law, what then is there in Comanche practice that can be identified with what can reasonably be considered "law"? Professor Radcliffe-Brown and Professor Malinowski are at one in agreeing that rules of law are distinguishable from rules of custom as such. The point of distinction is their point of departure. The road taken by Radcliffe-Brown is the road which points us on the way to our working hypothesis. Brown's essential point is that customs (of various types) and laws are both social norms, distinguishable not on the basis of content, but in accordance with the type of sanction which is attached to the norm. However, the tripartate categories (with their subdivisions) of social sanctions developed by Radcliffe-Brown did not prove to be useful in this study.[3]

121 The identification of the legal sanction is the moot problem in the discovery of a working hypothesis for law in society. Interestingly enough, it is in a one-time conceptualization of law formulated by Professor Malinowski that the idea to be developed in this study was found. The hypothesis arrived at by the present author is a development and refinement of a principle since discarded (or forgotten?) by him. In Malinowski's first work he wrote, "A given social norm or rule is legal if it is enforced by a direct, organized, and definite social sanction."[4] This was in 1912. "Direct," "organized," and "definite" do not definitely clarify the nature of the sanctions Malinowski had in mind, but the attributes of the legal sanctions are indicated in these words.

Customs do have sanctions of different kind and degree, and since what we know as law consists in some perceptible external pressure restraining men or coercing them to conform to certain prescribed standards of conduct, then if such coercive sanctions exist in primitive societies, we are confronted by legal phenomena. As MacIver writes on the use of force in the social situation,

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[3] A. R. Radcliffe-Brown, *Social Sanctions* (Encyclopaedia of the Social Sciences, vol. 13, 1935), pp. 531–534. Also *Primitive Law* (Encyclopaedia of the Social Sciences, vol. 10, 1935), pp. 202–206. The author is also directly indebted to Dr. Brown for stimulating his thinking on the role of sanctions with a lucid discussion of his (Radcliffe-Brown's) concepts in personal conversation in the summer of 1932.

The limitations of the categorical approach of Professor Radcliffe-Brown are clearly shown when it is applied to a specific problem as has been done by Dr. John H. Provinse in his study of *The Underlying Sanctions of Plains Indian Culture* (*Social Anthropology of North American Tribes*, ed., Fred Eggan, Chicago, 1937), pp. 341–374.

[4] Bronislaw Malinowski, *The Family Life of the Australian Aborigines* (London, 1912), p. 115.

> Wherever men act, or refrain from acting, in a manner different from that which they themselves have chosen or would choose in a given situation, because others deliberately limit the range of their choice either directly, through present control over it, or indirectly, through the threat of consequences, they may be said to be under coercion.[5]

Of the many forms of coercion possible, the exercise of physical force to control or prevent action is the absolute form of compulsion. As far as we have gone in examination of primitive and modern data, it would seem that the characteristic feature of law, as distinct from mere force, is the recognized privilege of a person or social group (either the society as a whole or any of the units which form its parts) to apply the absolute form of coercion to a transgressor when conduct deemed improper may occur. On this basis the following tentative definition of law has been formulated for use in comparative jurisprudence: *A social norm is legal if its neglect or infraction is met by the application, in threat or in fact, of the absolute coercive force by a social unit possessing the socially recognized privilege of so acting.*

The term "social unit" means, of course, any individual, sub-group, or the society in its entirety. The sub-group may be a group of kinsmen, or friends, or any association within the society. "Socially recognized privilege" means that the action taken is generally looked upon as justifiable and acceptable by the majority of persons in the society concerned. Acceptance by the majority is by no means a clear cut picture in many situations. Law is a thing of growth and conflict. The substance of an old rule may be under challenge. The formulation of a new rule may be meeting with stiff resistance. A point of friction may have existed in a society for generations without an effective legal solution having been attained. Feud is a case in point. A murder done may be punished by death at the hands of the murdered man's kin in accordance with prevailing custom. But the privilege of a revenge killing is not recognized (again in accordance with custom) by the kin of the murderer. They strike back, and the siphoning of blood is on.

"In threat, or in fact"; this, because compensatory and restitutive damages, as well as punitive fines (confiscation of property) are ofttimes substituted for coercive force. But the defaulter in damages and fines finds that force has been merely veiled.

It may be observed that under this hypothesis, the action of a parent in "tanning" his child for misconduct, when not objected to by others in the

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[5] R. I. MacIver, *Society*, p. 35.

121 society, is a legal sanction. The same would apply to similar actions of any group within the society toward members of the group, even when the sanction is applied for the violation of rules which are peculiar to the particular class of persons belonging to the punishing group.

121 671 The Comanche materials which are to follow serve to demonstrate (as one example) that in primitive society the application of law is not limited to the "political state," whatever that may be, nor even to government. When this fact is realized it will also be seen that "law" in our own society is somewhat more than has ordinarily been allowed. "Primitive law" is the henchman of Legal Realism.[6]

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[6] See, Roscoe Pound, *The Call for a Realistic Jurisprudence* (Harvard Law Review, vol. 44, 1930), pp. 697–711. And, K. N. Llewellyn, *A Realistic Jurisprudence—The Next Step* (Columbia Law Review, vol. 30, 1930), pp. 431–461.

LEGAL ACTIONS IN ADULTERY AND WIFE-STEALING

CONFLICTS IN MARITAL LAW AND SOCIAL CUSTOM

Though it was illegal for a Comanche wife to desert her husband, to do so 684
was a well established Comanche custom. More than that, custom provided 183
for effective group cooperation in extension of aid to the would-be deserting
wife and her absconder. Custom and law worked at cross-purposes. The 671
cause lay in the clash of two opposing fundamental interests which could not be integrated. The result was such "lawless" behavior as Mr. Jerome Frank describes as arising from the "pretend rules" which are so common in human societies, rules which give expression in law to principles mouthed but not wholly believed in.[1]

Before the law Comanche woman was a quasi-chattel; her man was her 562
baron. Under the system of contract marriage which prevailed, a girl was
bestowed upon a man ofttimes many years her senior and not of her own 671
choosing. According to the ideal pattern she adjusted herself to the arrange- 581
ment, settling into a smooth and dutiful marital career. It is the expressed belief of the older Indians that such marriages were more successful and lasting than those which were formed of romantic liaison. Unfortunately, one cannot determine the relative percentages of successful marriages for the Comanche. The Comanche law system buttressed this marital arrangement by providing institutionalized instruments for the collection of restituitive damages by any husband whose sexual claim upon his wife was infringed upon by an adulterer or wife-absconder. The husband could mete extreme punishment upon the unfaithful and hapless wife. A marriage had the full protection of the law.

The basic belief that a man's rights in marriage were exclusive (except 581
for the privileges extended to a brother under the anticipatory levirate) and 578
not to be impinged upon unless he had released these rights through recog-
nized divorce, ran into counter currents of custom in the existing notions of 183
romantic marriage (wherein younger couples sought love-mates of their own choosing) and the prevailing behavior of males in the competitive struggle for personal ranking and the attainment of bravery status. The competition for bravery ranking which was institutionalized in coup counting found its opportunity for expression *within* the tribe in the taking of women from their husbands. This threw the wife-taker and the husband into direct conflict. Not raw conflict, however, for as shall be seen, mechanisms for settling the issue without fighting had been developed.

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[1] Jerome Frank, *Lawlessness* (Encyclopaedia of the Social Sciences, vol. 10, 1937), p. 227.

183 684 The Comanche populace greatly enjoyed the spectacle of wife-stealing. The culture enhanced the procedure by providing for group cooperation in the absconding act. It is clearly discernible in this, that though the Comanches "believed" arranged marriages between an older man and younger woman were the best, their sympathies were with the young couple who tried to get together in spite of the formal pattern. Absconding took place when war parties were leaving the camp. The would-be absconder made himself a member of the raiding group and arranged for the woman to join him in the group at the first-night rendezvous. So the couple rode off on the foray with the gang of warriors.

171 Absconding with a war party is apparently unique among the Comanches, their own invention. The practice did not exist among the Shoshoneans from whom the Comanches stem. Among the Cheyennes such conduct was absolutely forbidden.[3]

PROCEDURE IN ADULTERY AND WIFE ABSCONDING

684 626 A Comanche male who had suffered a legal wrong was under social obligation to take action against the offender. For a man not to do so was not looked upon as an act of social grace; indeed, such behavior was a social disgrace. A man so acting was stamped not as magnanimous, but as lily-livered. Adultery and taking another's wife were direct attacks upon the prestige of the wife's husband. Both acts were unmistakable challenges which could not be ignored by the man who would maintain enough face to make life livable.

Naturally, the aggrieved party was not always inclined to act, nor was the reason always cowardice. If the wrong were not made public, it is obvious that public opinion could not drive a man to institute prosecution. Ridicule was the weapon used by society to cause a man to proceed after the cause for action had become public.

This is clearly brought out in the account of an adulterous youth as told by That's It.

Case 4. Adultery: Husband Slays Boy's Pony; Also That of Boy's Grandfather
Informant: That's It

"An old man had a handsome grandson. Being very proud of the boy, the old man liked to boast of him in public.

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[3] An enterprising warrior tried it once. The leader of the party immediately convened his followers in council to determine the action to be followed. The man and the woman were sent back to camp, but the warriors all promised gifts to be given to the aggrieved husband. On their return from the raid the promises were handsomely fulfilled. But they also effected a formulation of the rule that no man should ever take the wife of another on a raiding party. No subsequent violations of the rule ever occurred. Llewellyn and Hoebel, *op. cit.*

"One day the boy sat in a tipi playing the stick game. There were many people present. The grandfather came in and squatted beside the boy as he was playing. The old man looked around and saw a good-looking woman there. He nudged his grandson in the ribs. 684 626

"With a sly look he whispered, 'That looks like the woman you had last night.'

"The boy looked up and told his grandpa to go away. Then the old man was hurt and said he said nothing wrong. He said it looked like her; no harm in that, is there? Then he was quiet for a few minutes.

"But the old man just couldn't keep still. He kept repeating his observation, how that good-looking woman looked like the one the boy had had the other night. He wouldn't shut up.

"The woman's husband was also there. Pretty soon he spoke up, saying, 'Yes, that's the fellow.'

"The old man left the tipi.

"Pretty soon the game broke up, and all the people went home. The woman's husband just got on his pony and rode over and shot the red mare which was the old man's favorite horse. The he went and killed the boy's pony. He had been letting the matter ride until that old grandpa talked about it in public.

"The boy was real sad and he said, 'Grandpa, you sure done wrong. Look what you got us into.'

"The old man couldn't say anything. He just went off and wept."

The Comanches in this respect were like Malinowski's Trobriand Islanders[3] and many another society. An act may be known by the public and winked at, but when the act is publicly labelled, self-conscious public indignation flares up and blasts the culprit with its hot breath.

Since there were no courts or assizes to be waited upon, action could be instituted at any time. Each case was met by the parties concerned as it arose, 627× and the location was limited only by the necessity of carrying the action to wherever the offender could be found. At home, this was usually at the doorway of his tipi. If the offender was with a raiding party, the aggrieved could await the return of the absconder, or could pursue him. In prosecution, the aggrieved (a) accosted the defendant himself, stating the offense and the extent of damages which would satisfy him. This he might do if he were brave enough. Or, (b) he sent others to prosecute for him, signifying that he considered the matter not worthy of his personal attention, and at the same time minimizing the chance of violent outbreak. An extreme x627 instance of this method of procedure was to send the unfaithful wife herself on the onerous task of demanding damages from her lover.[4]

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[3] Concerning incest among the Trobrianders: "If the affair is carried on *sub rosa* with a certain amount of decorum, and if no one in particular stirs up trouble—'public opinion' will gossip, but not demand any hard punishment. If on the contrary, scandal breaks out—every one turns against the guilty pair and by ostracism and insults one or the other may be driven to suicide." (Malinowski, *Crime and Custom*, p. 80.)

If the aggrieved deemed it wise to form a party to act in the prosecution of the case, he (c) took his group and sat aloofly astride his horse while his confreres laid the charge and negotiated. But he sometimes got impatient with the progress of the action and interceded himself. This led to violence. At every step, strong individual reactions threatened the proceedings.[5] It was not unusual, however, for the aggrieved to (d) send his group to carry out the whole procedure, refraining from appearing upon the scene himself. The situation is not the same as in (b) above.

Another alternative relied upon by men without war honors, lacking in

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[4] *Case 5. Adultery: Husband collects damages through wife*
Informant: Visits Her Relatives

"A woman used to go regularly to a hill to get power. Claiming to be a medicine woman, she induced her parents to build her a special tipi in which she could go to rest when she had returned from her pilgrimage for power. This went on for some time, when her husband began to suspect that her movements were not in the interest of medicine, as she claimed. He followed her one day and found her horse down by the creek. Turning back, he went by the tipi of a young man and heard his wife's voice inside. Looking in stealthily, he saw the pair lying together.

"Feeling very wrathful, the husband went home and asked his mother-in-law to take down his wife's special tipi. She refused. He then told his sister to do it, and she could not refuse him, so she removed it.

"When the woman came home and went to rest in her tipi, she found it gone. She went to her husband to ask where her tipi was. He invited her to come into his tipi and sit beside him. When she had done so, he pulled out his knife and cut her hair off close to the scalp, then cut her skirt short. In this bedraggled state he drove her through the camp with his whip. When they came by her lover's tipi the husband bade his wife call to him to come and see her. She called, but her lover did not appear.

"Her husband then sent her to collect damages from him. He demanded six horses, a saddle, bridle, and war costume. When she appeared before the young man in her sad state he was sorry for her and said, 'You look so pitiful; you may have anything you want that I have!'

"His mother loaded his horse with all his portable belongings, and the wife led it publicly through the camp to her husband. This satisfied him, so he kept her as a wife."

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[5] *Case 6. Adultery, Homicide: Procedure breaks down*
Informant: Post Oak Jim

While one of the bands was out on the warpath, a man learned that his wife had committed adultery. He decided to let the matter ride until they were back in safer territory. When again out of danger the aggrieved husband went with two friends to the culprit to ask for damages.

Negotiations were proceeding amiably when the husband became impatient with the procedure and shouted, "That's no way to talk. Why don't you beat him up or kill him!"

This made his adversary so angry that he stabbed the husband dead. At that the two friends of the slain man killed the offender.

self confidence, and who were unable to muster a party for themselves, was 627x
(e) to entreat a war chief to act for the plaintiff in the matter. The ṭékniwᴀp undertook to see the matter to its close, whatever the consequences, once he agreed to open proceedings on behalf of the aggrieved. An aberrant form of the same type which completely reversed the principle involved was (f) the sending of an old woman to "prosecute" in a situation where the aggrieved feared the defendant, hoping through presenting his cause pitiably to touch the compassion of the offender and so gain larger damages than he himself would dare demand.[6]

The crux of the procedure was bargaining. There was no question of evidence—except in sorcery. In the damage-seeking cases the evidence was obtained before action was brought. In wife-absconding cases the presence of the woman with the absconder was *prima facie* evidence which need go no further. In all our cases but one the bargaining was begun with guilt accepted by both parties. In cases of adultery, beyond *in flagrante delicto*, evidence came from witnesses or by confession of the wife. However it may be, except for cases of sorcery, there was no technique for obtaining evidence from the defendant. Nor was the defendant usually confronted with witnesses. The aggrieved had to ascertain to his own satisfaction who the guilty party might be. After this had been done the defendant could then be confronted.

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And what if guilt was denied? Usually it was not. When the defendant refused to own up, the procedure apparently came to an impasse. The aggrieved might be angry enough to take illegal steps (violence), or he might possibly kill some of the accused's horses to satisfy his desire for damages. The latter course would be likely to lead to retaliation, however, for the defendant, in denying guilt, denied cause for damages and such peremptory taking of damages was to him illegal. The reaction of the defendant if the first recourse were taken by his accuser is problematical; it would depend pretty much on his temperament and guilt in fact. Denial

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[6] *Case 7. Wife-Absconding: Husband sends old woman to collect*
Informant: Rhoda Bluefoot

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A woman deserted her husband by joining a raiding party led by a noted warrior, who took her as wife. On their return to the main camp her husband did nothing to get her back because he was afraid of the warrior and his three brothers. So he sent an old woman to plead for her. Since the warrior wished to keep her, he sent back a gift of horses and goods to the husband in place of the woman.

This gift the husband had to accept, and he dropped proceedings.

Later the warrior was killed in a battle, and one of his younger brothers inherited the woman as wife. [587]

x627 [681] of guilt by an accused (except in sorcery) was so uncommon that there are not cases enough to draw sound conclusions.

Cases were opened with formal politeness and smooth words; the man who had come to prosecute addressed the one he was about to accuse as "brother."[7] While the defendant listened, he was told why the accuser had come as prosecutor and informed what must be given in damages to satisfy his visitor. Inasmuch as the defendant usually knew what had called forth the visit, the prosecutor was not invited into the tipi to take the seat of the guest of honor opposite the door. Ordinarily the defendant was sitting beside the door of his tipi as the prosecuting party arrived, and the negotiations took place before the tipi.

The aggrieved usually stated his demand for damages specifically, but the damages rendered were those which the defendant agreed to give and the aggrieved was willing to accept. "Willingness," with either or both, could of course be anything but willing. There was no judge to determine what should be paid in composition for the wrong, nor was there any specific customary code regulating payments in accordance with degree of wrong. Consequently, only by agreement could the case be settled. Without the aid of an arbitrator, the sole way to agreement was bargain.

x627 577 The factors which operated in the process of settlement were manifold and delicate, each factor having many shades and facets. Who can say what the forces shaping the attitudes which determine the actions of any individual in any special circumstance may be? It is clear, however, that the will to push or resist was of greatest moment. Sometimes the defendant acquiesced only too willingly to the first demands made upon him. Sometimes the prosecutor placed a timid request for compensation, which he accepted with a sign of relief, glad that the thing was done. It is in this very will to push or to resist that the personal factor entered and resists reduction to written words. Nevertheless, personal courage and aggressiveness were the potent traits which counted in the Comanche male. Each party mentally weighed the other and decided accordingly, most of this being done before any action recounted in a story could occur. The one outstanding factor around which the settlement of a dispute turned was not the question of the right or wrong of the situation, but rather the relative bravery in warfare of the two parties involved. A reputation as a doughty slayer of enemies was a handy thing. The real point was that in Comanche law, as in all law, the ultimate power was resort to force. But

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[608] [7] In Shoshone and Comanche theory, men who had shared a woman sexually were supposed to be brothers. For a discussion of the brother terminology and its relation to Shoshone-Comanche marriage practices, see E. A. Hoebel, *Comanche and H3kandika Shoshone Relationship Systems*, pp. 448–449.

the right to use—or threaten with—force was not reserved to the government. It was a privilege reserved to the interested parties in case the adjudicative process broke down. In other words, there existed a situation exactly comparable to that observed among nations which recognize certain practices of international law, but which reserve to themselves the sovereign right to resort to force if things don't suit them. Then, in the words of Post Oak Jim, "Lots of trouble, lots of people hurt." 627× 577

It is very clear, however, that the Comanches tended to attribute moral rightness to the braver man. This is revealed, for instance, in the settlement of a land-rights squabble in the early days on the reservation:

Case 8. Land Dispute
Informant: Eagle Tail Feather

When land allotments were made by the government, two neighbors quarrelled over a quarter section of land which both wanted. One of them succeeded in establishing his claim on the disputed land. The other protested the action and contested the claim. Feeling ran higher and higher over the matter until each was threatening to kill the other.

Quanah Parker, who was chief of the band at the time, was called upon to settle the dispute. He asked two warriors to testify as to the past war record of the disputants. Since one of the warriors was late in coming to report, Parker sent Eagle Tail Feather, then chief of the Indian police, to find him to hear what he had to say. Eagle Tail Feather took another warrior with him as witness. The first disputant also went in the party, thinking to gain an advantage by confronting the witness personally.

When the four men were assembled at the warrior-witness's house, this disputant spoke up, saying, "Which is better, I or this other fellow?"

"All right," said the warrior, "now that you've asked me, I'll speak out plain. That other one (the opponent in the case) is the better man. I was in a battle where I saw him get off his horse and help a dismounted comrade from the midst of the enemy. He is a brave man and did a great deed; you'd better look out or he'll whip you, or kill you."

These words silenced the claimant. He knew that he would lose the land unless he could speak up and tell of a braver deed which he had performed. This he could not do, so he remained speechless while the others waited for his words. When they were satisfied that his adversary was the braver man, Eagle Tail Feather and his aide returned to Quanah and told him what had ensued at the meeting.

Quanah decreed that the disputed quarter section should belong to the warrior who had made the rescue. The other released his claim to it without further word.[8]

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[8] This is, of course, an atypical case, involving as it does, land rights which are not a part of the aboriginal culture. However, it *does* show the carry-over of old attitudes to new procedures.

x627 556 The principle of "soak the rich" was also a practice of Comanche law. Damages were scaled partly in accordance with the wealth of the offender. There was no feeling that a rich man *ought* to pay more. It was just that he could, and the Comanche prosecutor stuck the defendant for whatever he could squeeze.

x627 231 Damages usually sought were horses. Blankets, guns, saddles, clothing, robes or any other article of personal property *except medicine powers and related paraphernalia* were frequently asked for in addition. The horse, however, remained the basic consideration. For adultery or wife-absconding, from one to ten horses were transferred, seldom more. Special pains were often taken to specify the horse or horses demanded by the aggrieved, and quite frequently the demand was for what both punished and humiliated: the favorite horse of the defendant. No matter how many horses the defendant might offer which were just as good, a prosecutor would be adamant in his demand that the favorite be delivered over to him. Such horses were favored by the owner for qualities of grace, speed and stamina, or just as often because the animal had been the gift of a beloved friend. Old men today in reminiscent thought will say that in the old days a warrior ofttimes loved his horse more than his wife, or child, or any other human being. It is in the light of this that the demand for a favorite horse indicates that such damages—indeed, any damages—are more than mere economic compensation. As the wronged man suffered a spiritual hurt, so must the guilty party suffer a spiritual loss. Thus, damages collected were in part damage done to [558] the wrong-doer's "face."

x627 231 554 The *beau geste* which crops up in so many cases is simply another indication of this point. The magnificent and haughty slaying of horses given, or due, in damages was no act of economic nature. This fine disdain indicates a psychological satisfaction more precious than the mere reception of wealth in payment of a wrong.

x627 684 Doubly, therefore, was bargaining tense, with pride and punishment playing upon the economic factors. The jockeying and sparring of the bargain, with some of the imponderabilia of impinging attitudes are strikingly revealed in the following typical case.

Case 9. Levirate Claim: Mexican vs. Breaks Something
Informant: Breaks Something

"Mexican was a friend of Touched With A Closed Fist. They called each other brother. When Touched With A Closed Fist died a long time ago, Mexican went to claim the widow for his wife. That was Woman. Woman didn't want to live with him, so she came to me.

"We were living down at Red Store when one day two men came to see me.

They were Mangey Coat and Atsaçi. We talked, and then they said they had come to get damages for Woman. I was surprised. I asked them which one of them had a claim on her. 627x 684

"They answered, 'We have come to you from Mexican. He was the brother of Touched With A Closed Fist and this woman is his wife.'

"I called her and asked her if she were married to another man.

" 'No,' she said. She denied having anything to do with him or wanting to have anything to do with him.

"I was satisfied. Then I turned to those two men and asked what Mexican wanted in claim.

"They answered that he wanted a certain horse I had got from a dead friend, another horse, a saddle, and a Winchester.[8]

"I told them that I would not part with that first horse. It was dear to me. I told them I would give them another just as good.

"Atsaçi answered, 'We want that horse or none.'

"I tried three times to get them to agree on another horse, but they refused. Finally, I told them, 'All right, if you take that horse, you get nothing but that horse. It is enough.' I had something else to say, too, and I told Atsaçi I wanted to tell him something after we finished.

" 'What?' he said.

"I told him not to forget that he was married to two of my 'daughters' (they were daughters of my brother). In these words I spoke to him. 'If I accept these terms, and you insist on that horse, you can have it. But if you do, you will lose your two wives. I will take back my daughters from you. You are my son-in-law and yet you are not caring what you say; you are trying to get the horse I love.' [595] [602]

"Then Mangey Coat broke in right away. He said that Atsaçi wasn't thinking about what he was saying. He said they would agree to take another horse.

"That was what I wanted. Atsaçi was silent. He was ashamed. He was really older than I was and he had forgotten about being my son-in-law in that way. Then I asked him what he had to say to the agreement.

"He mumbled, 'Well, it's up to Mangey Coat. He is older than I am. It's up to him to have the say.'

"Well, I told them I was willing to do the right thing, so I gave them a grey mare, a bay horse, a good saddle and a gun. Later on that grey horse got to be a very good racer and won lots of money." [541]

Here is one of the few cases in which the *danger* of sending intermediaries appears. But ill-advised choice of counsel is a risk, even with us. Note also that a breach even of the levirate bites, though the brother-tie be purely classificatory; and that rights of the wife's "father," though but of the "father"-group, are available after marriage. 627x 602 x627 595 Comparison at this point with a reference to Comanche law from the literature will indicate how much more deeply the stream runs than appears from the surface, and why special study with reference to legal behavior is fruitful. "Polygamy is practised to a great extent—some chiefs having more than ten wives, but inconstancy is the natural result of it, which is frequently punished by cutting off the nose of the transgressor, and sometimes even death; but more frequently the woman escapes unpunished and the seducer is deprived of all his available property, which is yielded to the injured party, by custom, without resistance."[10]

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[8] In strict form it was customary to ask for four different articles in damages.

In those unfortunate cases in which the defendant was so poverty-stricken as to be unable to pay any damages whatsoever, his opponent had legal recourse to thrashing him on the bare back with a horse whip.

Case 10. Adultery: Buffalo Robe vs. Cliff
Informant: That's It

Buffalo Robe found Cliff lying with his wife. Since the husband knew that Cliff was too poor to pay him any damages. He took his quirt and started to whip the fellow. The culprit had to stand still and say nothing until Buffalo Robe was finished. Then he went home, his back raw and bleeding.

In later years Cliff used to boast about how he had lain with Buffalo Robe's wife and what a beating he took for it.

487 558 It is not that Cliff had become case-hardened: it is the satisfaction an old man derives from re-living and re-telling the pranks of his youth, as did the old men in the Smoke Lodge. As a youth, however, Cliff was horribly disgraced by the whipping. He had been physically and socially debased before the entire tribe. Only great war honors could have reestablished a position for him.

x627 684 *Case 11. Adultery: Whipping waived by Warrior*
Informant: Post Oak Jim

"A bunch of Comanches were out raiding one time when some American soldiers caught them off guard. The soldiers got away with most of our horses. My nephew saved just one white horse from the soldiers. It was the only horse left in his band.

"Just after that bad luck, he got caught in adultery with another man's wife. He spoke right up and told the husband he would settle for it, for he admitted he was in the wrong and was willing to make it good. He offered his white horse to the husband—it was the only horse left. The husband was willing to settle it at that, since there were no more horses available. That was a lively horse and very skittish. Catching it was always hard work. This time, all the friends and my relatives joined in chasing the horse to bridle it. One of them finally captured it, but it fell

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[10] Neighbors, *The Comanches* (Schoolcraft, *Indians*, vol. 2), pp. 131–132.

1: Hoebel E-5 (1933) 1940 NO6 Comanche NO6

and broke its neck. They all stood around looking at it. Then one of my brothers spoke up for my nephew, 'Well!' he said to the husband, 'We intended to do right by you. Now there is nothing left but to offer to let you whip him.' 684 627x

"The boy took off his shirt to get ready.

"Then a man spoke up for the other side, and said, 'We see that your intentions are good. He's a young and fine man; we won't hurt him if he promises to be good in the future.

"The boy was glad to promise, and the case was settled right there."

Could anything bring out more strongly (a) the social approval behind the justified plaintiff; (b) the extent to which the aggrieved might want vindication rather than reward—and was under *pressure* to be magnanimous?

In a case of wife-stealing it was not incumbent upon the husband to seek damages. It was sufficient if he demanded the return of his wife, making the demand good. It also served if he slaughtered his wife for her act of desertion. Thus, in two of the twenty-two specific cases of wife-stealing of which we have record, the wife was slain outright by the husband without negotiation for her return or for damages. In slightly less than half of these cases the husband negotiated for the return of his wife and got her. In most of these instances no damages were paid. In an equal proportion of the absconding cases, the husband sued for damages, received a satisfactory settlement, and released his claim on his wife, thus permitting (or acknowledging) her change of marital status.

The unfaithful wife was in any event subject to severe chastisement, unless her husband feared her lover or absconder. Unless her lover's protection was adequate, her husband almost certainly whipped her, gashed the soles of her feet, or more commonly, cut off her nose. Though thus disfigured for life, there was no marked social stigma in noselessness. Pity, rather, was felt for the unfortunate woman, for the Comanches placed a high value on good looks. [832]

INTERMEDIARIES AND THE CHAMPION-AT-LAW

Women who were deserting their husbands rather consistently chose brave men as partners in absconding. Or, if the absconder was doubtful as to his own fighting ability, he placed himself and his runaway woman under the temporary protection of a war party leader. It is also said (no cases) that a would-be absconder sometimes induced a war party leader to steal the desired woman, then to release her for the lover after the settlement had been made. Consequently, the husband was more frequently than not the weaker party in the bargain situation. He was impelled to 627x 684 x627 684 take action by the force of social opinion; yet he had small chance of succeeding.

It is true that his kin would avenge his death if he were killed in carrying out his social obligation to prosecute. Small comfort in that. What he sought was not death but an adjustment in accordance with his legal rights. Where the balance of prowess lies normally on the side of the wrong-doer in an individualistic system, the process of law will be checked. This is because the ultimate legal sanction is force, the very power in which the prosecutor may find himself shorthanded. If this prevails generally, then the foundation is sapped from under the structure of legal order. But if the power of the wronged party equals that of the transgressor, a different situation exists. A settlement can be effected through bargaining. Here the sociological principles of compromise are clearly operative: an avoidance of force to effect exchanges in terms of mutual concessions. John R. Commons writes, "Arbitration is never accepted until each party to a dispute is equally afraid of the other, and when they have reached that point, they can adopt something better than arbitration, namely, negotiation."[11]

x627 602 Unconsciously operating on this principle, a Comanche prosecuted by himself only if sure of his own courage in relation to that of the defendant. But Comanche society took an important step forward in effecting an equalization of powers when the aggrieved was not strong enough to prosecute by himself. The aggrieved was allowed the privilege, apparently not customarily granted the defendant, of marshalling his kin and friends to aid him in seeking restitution. In many instances these partisans took over the complete responsibility of negotiations. In other cases, the aggrieved accompanied them on their mission, but refrained from entering the bargaining activities. In no single specific case did the defendant take recourse to similar reinforcements. It does not seem to have been his privilege. Consequently, the collectivization of the bravery of blood relatives and friends by the prosecutor may be viewed as a social mechanism whose function was to give added protection to the rights of the husband.[12]

This practice often allowed for such a show a force on the side of the aggrieved that the defendant could actually be cowed. Though this might seem unfair, there is more justice and stronger check to illegal action if it is the defendant and not the wronged party who is thus intimidated. Accordingly, this occasional overbalancing of forces on the prosecuting side does not so much defeat the aim of law as would the alternative condition, and is socially more defensible. Nevertheless, as we shall see, abuse by the plaintiff could lead to repercussions. Defendants, too, were within the protection of the law. 627x 602

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[11] J. R. Commons, *A New Way of Settling Labor Disputes* (American Review of Reviews, Vol. 23), p. 328. Commons' truth is an overstatement. Not "equally afraid," but "enough to make battle highly inconvenient," is more accurate.

[12] The only contradictory evidence to this is the statement by Post Oak Jim that once there was trouble over damages between a couple of groups fighting with rifles, "so I didn't get close enough to see much." The fact of rifles indicates that it is a late case.

A number of conditions entered into the matter of group aid in such endeavors. The "rightness" of the aggrieved party's case was a strong operative factor when it came to gathering his group. To participate in such a group if petitioned was a kinship responsibility, though not an obligation. It was rather reciprocity, in this case, which made the responsibility a reality. Theoretically any man could refuse to help a relative, but it was the better part of wisdom to go along with him. Who knew but what the day might come when each man in turn would need the help of the others? And there was material gain to be had by participation.

Brothers and friends who were called "brother" were those obligated to act for the aggrieved, if he called upon them. This obligation was fortified by a right to a share in the damages collected; the participants' right to a cut in the compensation took precedence over the aggrieved's. The ludicrous result was that sometimes a man's "lawyer" brothers got all, while he was left to contemplate the satisfaction of having seen the law through.[13] This is a stated principle, but does not appear in our case material. To be accurate, however, these "brothers" had more than a lawyer's interest, [587] and a closer responsibility than that of other relatives was theirs. Through the institution of levirate they had a partial claim on the aggrieved husband's wife. They too were wronged. This claim could in itself give rise directly to occasional legal action. Hence their share in the damages was more than pay for helping in the procedure. It was a share in composition for a wrong mutually suffered. But why did the "brothers' " rights to the goods take precedence over the husband's? A hazarded explanation would be that it served as an inducement to reinforce the obligation the brothers held.

Or is it possible that a broader force was in operation here? The practice may be associated with prestige compulsions. It was more grandiose wantonly to kill a horse than to take one. It was more noble to reward one's helpers than to grab the take for oneself. The principal was under social compulsion to be noble. Is it a parallel to the rule of the raiding party that the leader should be the last to share?

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[13] Bobby Burns, 'tis said, ruefully declared, "The Lawyers get the a' of it."

x627 The Comanches showed a sense of justice at work and an awareness of the function of legal institutions in their society when they accorded the aggrieved party a customary massing of subsidiary force which was apparently denied to the aggressor. The dynamic quality of Comanche culture and the mark of creative genius is to be seen in the way in which this principle of equalization was refined and fitted to meet the needs of the person who had no group of "brothers" to back him in need. Comanche juridical processes were more than a mere phase of the status struggle among males. Men whose status was so low that on the personal and kinship basis they were, in effect, without status were still guaranteed protection under the Comanche law. This was done by harnessing the status drive in the society to the needs of the weak and aggrieved. There was the institution of *champion-at-law*.[14]

The functioning champion-at-law is best revealed in action through cases.

Case 12. Wife-stealing: Red Crooked Nose vs. a young warrior
Informant: Visits Her Relatives

"The wife of Red Crooked Nose absconded with a young, good-looking warrior.
x627 In the raiding party were four other men and another woman. For two years the
684 pair remained away, and no one in the main camp knew where they were living.
581 But one day some hunters found their camp and reported it to Red Crooked Nose.
He was determined to get his wife back, but he had few war deeds to his credit. So he asked a brave, well-known warrior to go with him. The warrior consented to go.

"When they reached the absconder's camp, the woman saw them coming and ran to her young husband, saying that she wanted to stay with him. But when the young man saw Red Crooked Nose's champion he said, 'Against such a man I have no chance to keep you.'

"So they met outside the tipi. Red Crooked Nose picked up a quiver of arrows belonging to the young man, but his wife told him, 'Put them down. You can't do any better with them than their owner can.'

"Food was offered the newcomers, and they stated their mission. They said that they would accept no damages in place of the woman, that Red Crooked Nose needed her to care for their young child. So the young man ordered her horse brought, upon which was a good saddle, a silver-braided bridle, and good blankets. He told the woman to dress up. He told her, 'Take everything nice that belongs to you. This old man can't get things like these for you.'

"She gathered all her belongings, including fifteen horses. She was ready to

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[14] There is no special word in the Comanche lexicon for this personage. A man acting as champion-at-law was simply referred to as tékniwᴀᴘ (war leader). Only men who were war leaders were sought to act as champions. Their legal activity on behalf of others was merely an incidental function of their status as ranking braves in the tribe.

start back with them, but she cried pitifully to have to leave her young lover. After 627x
they had started, she lagged behind sullenly.

"They had gone. The young absconder broke camp. He mounted and rode on 684
past them. As his horses ran by, Red Crooked Nose killed one of them and called 581
upon his party to take the meat he had shot for them. Then the owner of the dead horse scorned him, 'My feelings aren't hurt. *I* can get plenty of horses—like the grass, so many!' And he rode on.[15]

"He knew that Red Crooked Nose would not have dared to kill his horse without the warrior as protector.

"While stopping one night they heard that enemies were coming. The women were sent on. The men prepared for war. Before the battle started, the young man donned his best war paraphernalia. With his feathers flying he rode past the camp of Red Crooked Nose. He fought conspicuously and was killed.

"The champion saw him go down.

"He called to Red Crooked Nose, saying, 'It was we who caused him to be killed. I know you are a coward, but you have to go and walk in front of the enemy to protect us while I carry off his body.'

"Thus they took the young man off the field, and put his body on a horse. When the woman saw his body brought back, she tore her dress apart, slashed her body all over with her knife, and cut her hair off short. She embraced his body and wanted to throw her jewelry away in mourning. But the people pulled her away, telling her to keep it in remembrance of him.

"Red Crooked Nose and his champion rode up and mourned him. Then he was wrapped in blankets and buried. The camp broke up and continued on its way."

Though it is the activities of the intermediary which we must here 627x
examine, the fine devices of sarcasm and ridicule which make this history so 558
rich in intrinsic sanctions deserve attention. The woman mocks her husband. The lover mocks. These are expressions of rage, or attempts to egg him into overreaching his position. The latter occurs. Again the lover mocks. But the combination of grief and shame works in him as his mockery seems to have worked in the husband. He seizes the occasion for a protest-sacrifice equivalent to suicide, save that it serves his tribe. The champion turns upon the championed. Red Crooked Nose's mourning is a penance. And one may be certain that his later repute suffered. The people told *her* to keep her jewelry in remembrance of a "wrong-doer," who, over-penalized, had made himself a hero.

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[15] No empty boast for the young man. And it cut two ways. In itself this killing of a horse, over and above taking back the woman, is wholly proper. The overdoing lies in these points: the woman had brought double a heavy indemnity, the adjustment was over, and the strength of the husband was not equal to the deed he was performing. He was over-reaching and the young man's disdainful ignoring of his act showed him up in just that way.

627 624 554 The institutionalized champion we see as a purely social device. None of the ordinary inducements used to lead a person to assume a difficult obligation or responsibility were operative for him. Unlike kin or friends, he received no material compensation for his pains. This is borne out both by the word of the informants and by the evidence of the cases. Nor did the principle of reciprocity of services operate for him. Men chosen to act as champion were always warriors of great renown. They could look to themselves; they had no need to ask for return of favors. It was a sense of *noblesse oblige* and self-esteem which forced the champion into the legal lists on behalf of weaker persons to whom he had no personal ties. A war leader who refused to accept the request for aid in prosecution was to be deemed unworthy of his rank, for it was imputed that he feared the defendant. No war leader could admit fear. The institutional capitalization of these factors for the legal protection of the weak is an amazing piece of social engineering.[16]

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[16] One has only to contrast the Roman *patronus* and early medieval infeudation of free 171 land. Those "muscle men" exacted pay for protection as does a modern gangster. No matter that it was not with money. For favorable comparison to the Comanche consider the Ifugao *monkalun*, or Icelandic *lawman*.

Each of these functionaries was reponsible to both parties in dispute, though the *monkalun* was evoked by the plaintiff. He (the *monkalun*) was at most a distant relative to the litigants. He was a *kadangyang* (man of wealth belonging to the first rank of society) and a man with a head-hunting reputation, as well as a successful settler of disputes. His method was suasion, threat, wheedling, scolding, according to the arts of fine diplomacy. He worked between the disputants (they keeping rigidly from each other's sight) until he could bring them to stand on a plank of settlement acceptable to both. For his pains he received payment in pigs or other commodity from the plaintiff. This was compensation for his efforts, but as Barton tells us, the main drive which spurred him to work for a peaceful settlement was the desire to build his reputation as a mediator. As in Comanche society the true reward was prestige. The *monkalun*, like the Comanche intermediary, was ready to fall back on force if need be. But he did not stand so ready with knife in hand. When he felt that he had exhausted his ability to bring the parties to a settlement, he declared a truce of a month's duration. Whichever party broke the truce by an act of violence had the *monkalun* and his family to reckon with in addition to his adversary. Thus the *monkalun* fell on either side if process degenerated to force, while the Comanche mediator always stood by his protege. R. F. Barton, *Ifugao Law*, (University of California Publications in American Archaeology and Ethnology, vol. 15, 1919), pp. 97 ff.

The Icelandic *lawman* presents a similar comparison. A plaintiff lodged suit by airing his grievance before all men on the Hill of Laws at the Thing, or in-gathering of citizens. The attempt was made to bring both parties to agree to accept whatever judgment might be given by a selected *lawman* or a council of his ilk. The alternative (legally) was wager of battle on the *Isle*. Outside of these legal paths were strife and murder. The *lawmen* derived honor and prestige for their efforts and seem also to have been feed in a modest way.

("After that men went away, and all thought things looked like the greatest tangle . . .

In action the champion was not an arbitrator. It was not his purpose to serve as a go-between. He went to demand damages. The bare fact is that he confronted the defendant as a "tough guy" who could take as well as give it. He was ready, if need be, to close the matter, not with damage settlements, but with physical combat. 627x 624 554

It is in the champion that we can see most clearly the social policy of balancing the opposing forces so as to clear the way for a bargain settlement. This phase of the Comanche legal system is therefore to be viewed as a not so badly balanced mechanism, which operated without the organization of government. Making certain that action was taken when an offense was made publicly known, it made possible a sort of justice by assuring that the guilty and the wronged parties were placed on a bargaining level.

There were no officials in the picture. The peace chief could not act in damage suits, because he had no social authority to do so. As an old and gentle man he lacked the physical prowess to enter an affair in a personal capacity. The champions who participated in actions, because they were the bravest men, were also war chiefs. But the role of champion which they played was a function of their bravery, not of their rank as a chief.

It is possible that if the evolution of Comanche society had continued under aboriginal conditions, the war chief would have taken on the police functions for the society, and have become, thereby, the administrator of justice.

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but Hall went to Thorgier, the priest of Lightwater, who was the old Speaker of the Law, and gave him three marks of silver to utter what the law should be." . . . "This was no bribe, but his lawful fee.") 171

But Eyolf Bolverk's son was sued to be condemned to lesser outlawry for having received a gold armlet to press Flosi's defense before the Althing. Flosi was given the same sentence for giving the trinket as an inducement. G. W. Dasent, *The Story of Burnt Njal* (A translation from the Icelandic Njal Sagen, New York, 1911), pp. 184 and 283.

HOMICIDE

MURDER AND RETALIATION

x 627 The description of proceedings thus far set forth reveals clearly enough that the native law made little effort to conceal the importance of coercion and force in its functioning. The Comanches, particularly, were a fighting people who did not fear violent action. To them *ability* to possess was "nine points of the law." Even so, it has been shown how far they had gone in modifying the primitiveness of this principle by setting up a legal mechanism of adjudication and compromise for certain offenses.

682 For murder, however, there was no adjudication or compromise in Comanche society. In the event of murder the *lex talionis* was invoked. The case was not closed until the kin of the dead man had taken the life of the murderer. There was no acceptance of composition as was the case with some other tribes of the plains.[1] Nor was there intervention and banishment pronounced by the chiefs as among the Cheyenne or the Omaha.[2]

602 682 Among the Comanches, where kin organization was weak, the principle of kinship liability was not potent enough to result in feud. In principle a simple retaliation was all that was required; the murderer must be the victim. There was no ruthless taking of life of whomsoever happened to be related to the murderer. The kin feeling was strong enough, however, to induce the kin of a murderer to do their best to protect him for some time. As long as vigilance was maintained, unless the murder led to hot-blooded vengeance on the spot, no attempt at attack seems to have been made. The avengers simply waited until time wore down the watchfulness of the protectors; then the avenging thrust was made.

There is but one case known to us in which the kin groups met in open clash. And that was a strange mix-up.

Case 13. Murder: Cooks Dried Meat vs. Pitsku
Informant: Talker (Recorded by Jeannette Mirsky)

"Cooks Dried Meat had a wife. Early one morning he told her, 'We're going hunting.' After they had gone quite a way, Cooks Dried Meat told his wife to dismount. She did so. Then he took her to a tree and tressed her to it. He faced her and said accusingly, 'You and your uncle (a classificatory brother of her mother) are intimate.' The woman denied it. But he persisted, 'I saw you helping him fix his hair. You were looking for lice on his scalp.' With that he whipped her hard and then took her home.

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[1] R. H. Lowie, *Primitive Society* (New York, 1920), p. 403.

[2] A. Fletcher and F. LaFleche, *The Omaha Tribe* (Report, Bureau of American Ethnology, vol. 27, 1906), p. 215.

"That evening just before dark the wife left his lodge and went to the tipi of 682 her uncle. She arrived just as he and his wife were finishing eating. When they had finished their supper, they asked what might be on her mind. 'I have come to carry 602 tales,' she said. 'Go on,' he replied. 'Well, your son-in-law, Cooks Dried Meat, accused me of being intimate with you, and he whipped me badly.' Her uncle was indignant. 'The brute, the bad thing, the devil—you shall not go back to him.' His mother and father were living in the same tipi, so he asked the woman to stay there.

"A little later there was the sound of something outside, and a voice said, 'I have come for the person who is visiting you.' 'Go home!' the uncle shouted back, 'she is staying here.' It was fall and cool enough to have a fire and eat indoors. They went to bed.

"The uncle's tipi was at one end of the encampment; the husband's was at the other. Just at white dawn a voice shouted out from the tipi of Cooks Dried Meat. 'Get ready Pítsku (the uncle). Prepare yourself!'

"It stirred a terrible commotion. Everybody woke up and asked what was going 602 to happen and angry voices were heard. Cooks Dried Meat strode forth accompanied 682 by his father, the aged peace chief, Tongue, and a young man. They went towards the tipi. 579

"Close to that tipi was one of an old man who lived with his grandson. He stuck his head out and received an arrow full in the throat. As his relatives pulled loose the shaft they cried, 'We shall wipe Cooks Dried Meat out. We shall join Pítsku to do this. Then they fired and killed Tongue. The fight was on. Pítsku got badly wounded in the rump. Hard by was my mother-in-law's tipi—a big one. Into this Pítsku scurried for shelter. Next the son of Cooks Dried Meat was killed, making two men shot on each side. Cooks Dried Meat came to my mother-in-law's tipi to get Pítsku, but the old woman warned him away. 'You don't kill him in my tent,' she threatened. 'If you do, it will not be well for you. The man of this house is a great warrior and a strong medicine man. It will go ill with you if you shed blood in his tipi.'

"By that time a group of men had intervened. 'Stop it,' they ordered. 'It is enough that two men have been killed on either side. Stop.'

"Cooks Dried Meat then fled from the camp. He was chased by the grandson of the old man he had shot in the throat, but he escaped and never came back to the band. He moved away from it.

"Pítsku died of blood-poisoning. Tongue was the peace chief. If he had not taken his son's side, it would have been his duty to have stopped the fighting."

Other acts which to the Comanches were so heinous as to warrant lethal 685 retaliation on the aggressor were the slaying of a favorite horse, and insulting conduct which was insufferable to the aggrieved. These factors appear severally in different cases, but are combined into one single complication in a famous Comanche case known to many informants. There are slight variations in the telling, but the main points of action remain the same.

685 One version has it that the two groups involved were members of a single war party which was returning from a long raid and split because of disagreement over how fast they should travel. Another has it that two small Comanche war parties happened to meet, and thus the action occurred. The facts as reconstructed from several accounts produce running history as follows.

Case 14. Horse Slaying and Murder: Pepper vs. Múβa
Informants: That's It, Talker

Pepper, a Comanche of the Those Who Move Often band, was returning from a successful raid with his captive friend. They were bringing home a bunch of good horses and had reached the Comanche country when they met and camped with two men of the Antelope band, Múβa and his captive friend. In the morning four more Comanches, Man's Forehead, Breaks Something, Harness and Tsiwiwta rode up. They all talked awhile before Pepper and his captive made ready to leave. They rounded up their horses, except one, which was left behind either because it was lame, or had gotten into the herds of the others.

The warriors who had stayed behind were hungry and were considering what to eat. Múβa settled it by ordering his captive to kill the horse their friend had left behind. Some say he chose it because it was better to kill a lame horse; others, because it was nice and fat. They said they would give Pepper the choice of horses when they saw him. But the meeting with Pepper came sooner than was looked for, for he began to repent having left his horse behind. He turned back to see what had become of it. He rode up on the feasting group.

"You have butchered my filly. If you wanted to butcher, why didn't you kill your own horse?"

"Yes, we have done that," Múβa agreed. "But look here, my friend, there are our horses and pack mules over there. Take your choice."

685 So Pepper rode towards the grazing beasts. He drew his bow—the men watched
to see what he intended. Twang! He sent an arrow into Múβa's best horse and one
682 into his captive's mule. With the animals writhing on the ground, he rode off.

That made Múβa angry. "What a mean fellow!" he cried. "The way he shot down those horses. Get our horses! We are going to talk to our friend." As they rode forward to catch up with Pepper, he laid out his plot to his captive. "He will strike you because you are a captive. Hit him back and fight with him. Then I will kill him."

They came abreast of Pepper and started to talk with him. Soon Pepper began to abuse the captive. "You, what did you come here for? Do you think anyone would grant your wish or give you anything? If anyone wanted to horsewhip you, is there any reason why they should not?"

"Well, try it," the captive dared.

"Well, why not?" He struck the captive across the face.

The captive slashed back. They grabbed each other's hair and rolled to the ground. Múβa watched for his chance until he could shoot a wounding arrow into Pepper. 685

"Can't you do better than that?" Pepper cried. So a second arrow was used to kill him. 682

Without attempting to take the dead man's horses, they went back to where the other Comanches waited. "I have killed our friend," Muβa announced. The four who were there then mounted and went out to look for the body. They stayed a long time preparing a grave, wailing and mourning for the dead man. Múβa and his captive spent the time preparing a meal from their dead mule, which Pepper had shot.

When their friends came back from their mortuary undertakings, they ate heartily. 627x In the meanwhile, Pepper's captive drove his master's horses into camp. There was great mourning among his master's relatives. 682 Because Pepper had no father, a war chief named Bakamuts, a brave and respected man among the Those Who 619 Move Often, called for attention.

"Listen to me, all!" The wailing ceased. "There is a young brave named Múβa. He is of a large household and in it are many brave warriors. It is my mind that we let this matter go; because his friend first did the wrong thing, it was not his fault. Pepper was mean to have started the fight over a horse."

Bakamuts took these steps to close the incident because both he and the Antelope chiefs were afraid that the two bands would exterminate each other. They did not want a senseless fight between their bands. Crazy Bear and another Antelope chief counselled, "Let us forget this thing which has happened. Our children have intermarried; for their sakes, let us forget it."

Thus tribal consciousness checked a possible internecine war. But note 231 that the rationale is on the kinship basis. The Comanche had not yet 627x reached the state of pure polity. As to the materials of the action, the murdered warrior's resentment at the butchering of his horse was rooted in [619] the very personal nature of horses as property. Comanche horses were highly regarded and imbued with a degree of personality. It is not unlikely that the slaying of horses was to the owner close to murder and hence no light thing to compose. Two horses killed for one horse butchered is in one sense a more-than-murder retaliation. The revenge-killing of Pepper roots no less obviously in a pattern that atonement deemed ample, and freely offered, was to be accepted, not to be insultingly refused by shooting horses instead of receiving them.

The extremes to which feelings on a favorite horse could go are also 627x demonstrated in the famed murder of Rocky Thorn by Crowding A Person. 682

Case 15. Killing a Favorite Horse and Murder: Rocky Thorn vs. Crowding A Person
Informant: That's It

"The trouble resulted from a raid on a Comanche camp by enemies. As the raiders were making their get-away, a young boy jumped on the nearest loose horse to x627 682 join the pursuit. It was a fast buckskin, the favorite pony of old man Crowding A Person.

"The boy beat everyone to the enemy and overtook and killed a raider, but the rest got away. It was the boy's first coup. It made him so eager to get back to camp and to the acclaimed glory which would be his that he overrode the buckskin until it dropped dead.

"The youth's mother went to the lodge of Crowding A Person. There she told him of the enemy her son and slain. 'But at the same time,' she continued, 'he has had a misfortune.' She told him his buckskin had died.

"The old man was angry. He said he loved that horse better than any living person.

" 'Why,' he stormed, 'did the boy have to pick on that horse when there were so many other fast ones about?'

"When he acted like that the mother got angry too. She scorned him and hurled taunting words in his teeth. 'What are you talking for?' she cried. 'You couldn't do anything. You could not have killed this enemy. You do no brave deeds. You are a coward anyhow. If you love that horse better than me, why don't you kill me, if you dare?'

"The old man slowly answered, 'Rocky Thorn, do you mean that?'

"She said, 'Yes.'

"He took up his bow and fitted an arrow. He drew the string and shot. Two times he shot her, and she was dead. Then he prepared himself to meet his end. He moved his lodge outside the village, awaiting the return of Rocky Thorn's brothers from a raid.

" 'If they are going to kill me,' he said, 'let them do it away from the camp.'

"His best friend, an old man too, joined him out there and they waited. That night the war party came in. The brothers heard, and in the morning five men, all relatives of Rocky Thorn, went armed to visit the old men. When Crowding A Person saw them coming, he entered his lodge to prepare himself. Soon he came out again, knife in hand, to advance serenely against his enemies. They started shooting immediately. And yet he was as if charmed, for none of the arrows found him. He was almost among them. Then Chew It Up put an arrow through his breast and he was dead."

Such was the operation of the law of retaliation for murder. The kin of the dead were obliged to take revenge. This is the first principle of collective liability.

A second principle of collective liability frequently expressed as to primitive law is that a group cannot proceed against itself. Hence, a wrong committed by one member of a kin group against another within the same group is said to be not punishable in the same way as a wrong done by an out-grouper.

A unique occurrence illustrating adherence to the principle was the

attempted parricide upon old Brown Robe. It was a notorious and most 627x
"unnatural" offense. 682

Case 16. Homicidal Assault: Brown Robe vs. Crazy Bear
Informants: That's It and Visits Her Relatives

"Brown Robe was a Yɛp Eater with three wives. Two were sisters; the third was a chore wife. The elder sister had married him first and the younger had been given to him later. When he brought home the third wife, the elder sister said to him, 'I see you have a new wife.'

"Three young men were living in his household with him. They were Buffalo, who was his son by a former marriage, Crazy Bear, his grandson, child of his daughter who had died, and also Buffalo's nephew. The third young man was a captive whom Brown Robe had taken as a child, raised, and called 'son.' The two sisters each had a child by Brown Robe, but the chore wife had no children.

"One day Buffalo and Crazy Bear ambushed the old man. Buffalo shot him with an arrow. (His father had given him medicine as was customary for a father to give a son his medicine. This medicine was that of the brown bear; it gave invulnerability to bullets. A bullet won't go through a bear, except at a certain spot. An arrow will. That is why Buffalo used an arrow to shoot his father, because he knew a bullet would not harm him.) Then Buffalo ran off with the chore wife. She was not pretty, either. She was real dark. Crazy Bear ran off with Young Woman, his grandfather's younger wife. The elder wife and the captive boy stayed with the old man. He did not die from his wound, for he was doctored back to health by a medicine man. While they were out hiding, children were born to the two young men; each of them had a boy.

"Later on these couples and their children returned to Brown Robe's camp. He greeted them without malice. 'What you have done to me is forgiven. Just forget what you have done. Let us live in peace.' Everything did go smoothly after that. His former wives, who were now his daughters-in-law, treated him respectfully as a father-in-law. And when Brown Robe died about ten years later, his son and all his establishment mourned for him."

Community reaction in such a case could be only in the form of public 627x
disapproval. Legally the whole affair was a private matter. And as She 624
Invites Her Relatives explained it, Brown Robe could not retaliate because the offenders were blood relatives. Or as Kwasi (Dr. Mirsky's informant), phrased it, "His feeling for his son and grandson over-balance the women (meaning the wrong alone). The women were of no consequence compared to his own flesh and blood." Brown Robe's receiving the whole group back was above criticism, "because he was a war chief."

But the fact that Buffalo, his son, was also a war chief did not save him from public censure. People talked in strong terms of his conduct. When he and the others returned to the main camp, public opinion was so sharp that x627 624 they had to live apart on the outskirts of the village. The social sentiment was there. A norm making a crime of parricide could have developed from it. But as it was, it remained not a matter for "legal" interference by society. Therefore murder was still essentially a wrong and only vaguely a crime. [674]

x627 602 In case 27, p. 94–95, a young warrior slew his mother's brother because of black magic performed against his brother. The uncle was said to be putting a curse upon the youth for suspected adultery with the uncle's wife. Here were two intra-familial actions: the first, for a violation of marital rights; the second, a retaliation before the fact in anticipation of the death. In the words of the informant, however, "The quarrel was in the family, so no one else could take it up to do anything about it." This case sharply defies the supposed principle of inability of blood to proceed against blood. At the same time it resubstantiates the private nature of murder.

x627 593 682 602 Supporting and contradicting the hypothesis that action could not be taken against an aggressor within the family, is a second case of parricide in which Capture killed his father, who was a "captive white man who had grown from boyhood among the Comanches." His father had remarried after his first wife's death. The new wife was young and beautiful—and indiscreet. She took her step-son as a lover. When his father got suspicious, Capture shot him to get him out of the way. Then he fled. His flight, however, led him into the vicinity of That's It's camp. That's It was a foster relative of the dead man—through his adoption into That's It's family. That's It called him "younger brother." That's It took a party of his kinsmen to confront the murderer. "Son," he said, "for one thing I have come. It is as it is—it is done (the deed). I am taking the woman and the horses." Then the informant explained, "That's It took the horses and the woman, not as a form of damages, because Capture was his 'son': you don't collect damages from a son. He did it as a punishment, because the woman meant more to the boy than anything else."

x627 602 Taking a group of kinsmen over to divest an erring relative of his ill-gotten wife and horses was not collecting damages; it was punishing him! It had to be so, because one did not collect damages from a son. Is legal logic restricted to the civilized mind? One could not proceed against a kinsman, but one could punish him.

The truth seems to be that the "principle" itself rests on confusion. Where families or kin are the legal units recognized by the society as a whole, then *before the society as a whole or its officials* it may well be that "a group cannot proceed against itself." But there remains the self-regulation of the group. The Comanche instances show two things: that what happened

inside the kin group was the business of nobody outside the group; and 627x
that inside the group, the way of handling a situation depended largely on 602
personality and temperament.

PRIVILEGED HOMICIDE

One type of killing which was not murder was the privilege of the husband to kill his wife. 562 This is a variant of the purely in-group character of 682 in-group friction. For this there was no retaliation. It was the acknowledged right of the man, and no one would lift a finger to legal action. Not only was the position of woman largely that of chattel, but the chattel passed from the original family to the husband. In return the obligation to provide food for the father-in-law lay on the husband. Escape for the woman lay in absconding,[3] but the number of instances in which the run-away wife was slain or mutilated by the husband is notable. In the twenty-two cases of wife-absconding collected from the Comanches the woman disputed was killed by her husband in four. Three adulterous wives were killed by their [684] husbands in twenty-three instances of discovered transgression. Thus in forty-five Comanche cases of marital infidelity, seven women were slain at the hands of the husband or his henchmen. This is one in six.

Though the sample is admittedly too small to be *statistically* significant, and is possibly biased through selection on the part of informants, it is not without significance that eighteen percent of the adulterous wives were killed. That the statistical proportion cannot be greatly in error is buttressed in the wry observation of Rhoda Bluefoot that the wives of her father and his brothers never ran away; they were afraid of what would happen, because their men were well known as fierce fighters.

That the kinship group showed no inclination to retaliate when a husband killed his wife 581 —their blood relative—can mean nothing else than a 562 true relinquishing of the kinship bond upon marriage in favor of a supreme 602 marital bond. That a father had to beg his son-in-law not to harm his daughter who had erred, and even offered gifts that her husband would not harm her (see pages 101–102) proves this.

The fact of potential marriage through sororate rights did not, however, 587 establish the legal right of a brother-in-law to kill his wife's sister. She was 562 not yet his wife; therefore, not his for disposal—not even when the woman 682 was *also* the wife of the slayer's brother, giving thereby additional *expectant* rights through the levirate. The Comanche captive, Lost, met his death for killing the sister of his wife, who according to She Invites Her Relatives,

was at the same time the wife of his brother.

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[3] Women informants used by Dr. Mirsky held that household sabotage was the easiest way out. A woman could shirk her duty until her husband threw her out in disgust.

ccc was at the same time the wife of his brother. But when a son-in-law gave
586 personal offense to a parent-in-law, it was possible to order dissolution of
606 the marriage.

Case 17. Murder of Sister-in-law: Lost vs. his nephews
Informant: Post Oak Jim

x 627 "Once some white men caught some Indians and held them prisoners. Those
682 that were left were short of food. There was a Mexican captive who went to a girl
602 and said that if he could get a horse he'd buy something for them to eat with it. He wanted to take the best horse. The girl bawled him out. 'There are plenty of horses, and I don't want to take the best.' She said she didn't want to give it to this crazy Mexican. After that he wanted to make up again, but they sent him off. He was interpreter for the Indians at that time.

"The Mexican went up to his wife. He wanted to know where his bow and arrows were. He took them and went up to the woman who owned the horse and killed her. Four of her sons were gone. After she died, her people cried and cried, and buried her out on the prairie. All the rest of the Indians had it in for the Mexican, but they didn't know what to do about it. The Mexican was a medicine man and a war chief. The four boys got back. The others were crying for the dead mother. The boys told them to be quiet for a while. They said they were not going to cry until they finished everything. The Mexican's wife told him his nephews were back. His wife was the dead woman's sister. The sons did not eat. They got several men, and told them what they were going to do.

" 'We're just going to keep still about it for awhile. We'll find out all about it. This man is a medicine man, and we'll try to take away his medicine. Early in the morning we'll pack up and leave.' In the morning the men and the four boys got their guns and got ready to start.

"The Mexican had his horse tied up. There were eight men with the boys. The Mexican untied his horse, saying, 'They won't come.'

"His wife was all anxious and nervous. She said, 'Lost, what are you going to do? Your nephews are coming.'

"He said, 'I've no need to be on horseback to fight them. They are just like women.'

"They came around the tipi, calling, 'Come out, you are nothing but a coward.' As soon as he came out one of them shot him, and they went on. His wife didn't know what to do. He was dying; blood was just pouring out. There was one medicine man there, but he didn't have much power. The following evening he was doctoring Lost, but he died. The wife came down to camp the next morning. Nobody did anything to the boys. They had it in for him, killed him, and that was all. Lots of people were glad. He was real mean. Chew Up was the man who killed him."

It is not likely in this instance that the fact of Lost's being a captive laid him open to attack where a full-blooded Comanche would not have been.

He was a medicine man and a ranking war leader, which meant that he was 627x
perforce a man of status, even among the tribal full-bloods. 682

In spite of the legal right of a husband to kill his wife, it should be noted 602
however, that from a general social point of view, a man who killed his wives too recklessly was considered mean by the people; yet if he were insensitive to such disapproval, and particularly if he were brave enough to maintain his status through *coups*, there was little to prevent him from being as free a Bluebeard as he wished—except that wives became harder for him to get.

Attempts of wives on the lives of husbands were rare. The one case, given by Talker, is interesting for its many facets, and significant for its outcome. It shows that given time to let the revenge feeling cool, coupled with a recognition of provocation to kill, certain murders might be overlooked.

Case 18. Murder: Wife destroys husband
Informant: Talker (Abstract of History recorded by Jeannette Mirsky.) 627X

The husband had been abusing his wife in attempts to force a confession of un- 682
faithfulness from her. One day when he had prepared a fire over which to roast her, 593
she seized and stabbed him and cremated him on the pyre he had intended for her torture. Then she fled for many days to the west until she met Ute Indians. There she was adopted as a wife and lived for a season or two. Then she told her entire story, ending, "and then I threw his body on the fire that had been prepared for me. Because both my husband and I have many relatives on both sides, and because I feared a conflict between the two families, I started out so that there might be no trouble between the two families."

Later she escaped and returned to her people. She repeated the whole episode to the dead man's father, and as she finished, all her relatives burst forth in a great wail for the man whom she had slain. But there was no trouble. The dead man's father announced, "Because my son was so mean to her, and because I had tried to talk to him, and he would not listen nor heed my word, and because both our families are respectable, to do anything at this late date would be unbecoming."

Thus there was no feud, no retaliation.

ACCIDENTAL HOMICIDE

Though the Comanches were more rude than other Plains tribes in 627 x
their failure to recognize composition for murder, they showed more 672
perceptive discrimination than most primitives in drawing a clear line between murder and accidental homicide. Intent to assault was a necessary feature of murder. A clearly defined case illustrating this principle was given by White Wolf.

x627 *Case 19. Accidental Homicide*
672 *Informant: White Wolf*

"Two young boys were out hunting turkeys one time, when one of them stepped on a dry stick. It scared away the birds, and the other boy got so angry that he shot at his friend. He fell wounded in the side.

"In a panic of fright the boy fled from the spot where his friend lay bleeding on the ground. As he came into the village, he was met by his father, who asked where his friend was. The youth said he did not know; he told his father that his friend had left him an hour or more before, to come home.

"Later on the mother and sisters of the wounded boy got worried; they went out into the mountains calling his name. Finally they heard a low moaning; there, among the rocks, they found their boy lying in blood. In his mother's arms the boy told her he was dying. He begged her not to kill his friend, because it had been accidental. Revenge would not bring him back.

[764] "When the wounded youth died, the parents of his friend covered all the funeral necessities and provided gifts to be buried in the grave with the body."

Whereas murder allowed no adjustment other than death, accidental homicide could be settled by proper payment to the *family* of the deceased. Thus the boy who did the killing was not punished. However, it should be noted that the principals in the case were minors. It may have been otherwise with adults.

CRIMINAL OFFENSES

EXCESSIVE SORCERY

Much confusion in the study of simpler societies results from our common habit of identifying criminal law with so-called penal law. Primitive 121 law cannot be fruitfully considered according to the type of punishment. Criminal law is the law of crimes, i.e., *public* wrongs or delicts; civil law the law of "private" wrongs or delicts: torts and breaches of faith.

A crime may in this sense be distinguished from a wrong so far as the consensus in the society does or does not show a feeling that the act in question is a harm to society *per se* rather than merely to an individual or particular sub-group. Thus violation of a norm becomes a crime when the sanction of force attached to it is applied by society or its recognized agents, the primary motive behind the sanction springing from a positive sense of general social injury or affront. But the sanctions involved may be no different from those observed to operate in the case of private wrongs. The line between crime and wrong is not a sharp one; commonly, any offense is part one, part the other. When there is no statutory or other explicit means determining where the responsibility for action shall rest, it is occasionally difficult to differentiate crime from wrong in any way; indeed, there may be no differentiation.

Sorcery in Comanche society was primarily the concern of the family 754 of the person affected. It was for them to treat with the sorcerer or to 626 engage a medicine man to effect the cure. Sorcery as a wrong is dealt with below (see Ritual and Evidence). It is also clearly established that sorcery engendered social consequences causing the entire society to react. Because sorcerers were persons with whom social intercourse was dangerous, to be known as a sorcerer meant that normal social relations were to some degree withdrawn. To be known as a bad sorcerer meant that a person was usually shunned to the point of ostracism. The evidence indicates that this ostracism was positive enough to cause the evil medicine man to live apart from people, taking his position a little way off from the camp as a social pariah.[1] From this it is fairly clear that general social sanctions were asserted along with the particular magical and social sanctions which were first applied in a case of sorcery. Public opinion—that sustained public disapproval of any act or series of acts in which we find the germ of criminal law—was always hostile to the sorcerer. After a long-time accumulation of public

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[1] That the sorcerer was specifically ostracized was affirmed in a generalized statement by That's It. The fact will be noted in application in the case given by Slope on page 79, and again in the quotation from Eagle Tail Feather contained on page 81.

754 resentment a crisis could arise which focused all this resentment on the
626 sorcerer's unfortunate head, congealing public sentiment to direct and vigorous public action. When this point was reached, tort merged into crime.
626 The result was lynching. But such lynching was an act of social policy and
683 not the venting of mob hatred. The purpose and end can be seen to be the same as in many of those outbursts of fury which occur in our own society, but the temper was different. In our society lynchings are frequently associated with the outraged feeling that the "law" will not operate severely enough or that it may be evaded. Comanche lynchings were deliberately executed by spontaneous, but stated, social agreement in the absence of any other established procedure. This was a movement towards a higher juridical level; ours is a relapse. Finally, the crime of which the Comanche victim was guilty was rarely indeed *an* act; it was rather the acquired status of "publicly dangerous person," akin to our recent conception of Public Enemy No. 1. History and reputation made the status; danger, or the sorcerer's old age, or loss of grip furnished the motivation; any given particular outrage was at last a fulminating cap upon the charge.

x627 Comanche lynching was apparently not of frequent occurrence. It could not be called a *predictably* established practice. Our records are limited to
683 three accounts of such an event, though most Comanches will formulate the generalization that evil medicine men were killed by the people. These accounts were explicit and to the point, leaving no doubt as to their being definite Comanche reactions. It cannot be stated with surety that they are not all versions of the same incident.

Case 20. Excessive Sorcery: People vs. (?)
Informant: Post Oak Jim

"There was a nice young man got bewitched by an old Beaver medicine man; he was wasting away. Someone asked another medicine man to find out what was wrong with the boy. This second medicine man told them about the sorcery the Beaver man had made. He also told them that that same old man was the cause of other cases like that.

"When this was learned, all the men in the band had a conference at which they decided to kill the sorcerer. They made believe they were going to have a curing for the sick boy. They set up a Beaver lodge and put the sick boy in it. Then some of them went and smoked with the sorcerer and asked him to come to perform the Beaver ceremony cure for the boy. He accepted the smoke and came to the lodge. The people went inside, but they left two young warriors outside the lodge to kill the medicine man when he came out after the ceremony was over.

"Later on, he came out and started for home with a small boy as companion. When they had got half way home, and the women were all asleep, the two warriors sent the little boy away and killed the medicine man."

Case 20a
Informant: Slope

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"An evil medicine man lived among the band called Those Who Move Often. He was so hated by the people that he finally moved away. He went west and there located with another band. After he was there awhile, a man got sick. Another medicine man took the cure and saw that it was this evil man from the Those Who Move Often who had caused the sickness.

"The people got together and plotted to kill the fellow. They arranged for him to doctor a sick person—then they would kill him as he came from the tent. They did it just as they had planned. Just as he was stepping over the bottom part of the tipi door they shot him with bow and arrows. He made one big jump and fell dead on his face."

Case 20b
Informant: Talker

"How Gawky, the evil medicine man, died. He bewitched all the Those Who Move Often, old and young, men, women, and children; he was about to exterminate them. He placed a curse on a rich man. That man died. It was found out that it was Gawky who had cursed him.

"People talked this thing over; they said, 'There is not much we can do with Gawky; we can't fight him. The only thing for us to do, the sure thing, is to cause him to break his tabu.' His forbidden thing was the eating of any food cooked on a long stick—a spit.

"Someone invited him to dinner where it had been arranged to put a spit with meat upon it (just as was forbidden) under the robe on which he was to sit. He sat right on it.

"He ate his dinner and left.

"That night a voice was heard to cry, 'Gawky is dying.' 'What is he dying of? He can't; he is invincible.' Then Gawky spoke out, 'Nothing can save me; nothing can cure me. Through my rectum into my intestines has gone this forbidden spit. I am not going to get well.'

"He died. And after he died he became an evil spirit, but it ended sorcery among the Those Who Move Often. Just the contact of the spit had entered him magically and killed him.

"Bad medicine men become evil spirits."

What we see reflected in these cases is: (a) specific delegation of power to individuals by community agreement in order to rid society of a menace, (b) group slaying of the public enemy after community agreement (i.e., lynching). This is what made of excessive sorcery a crime.

Though not an historical case, one epic battle of sorcerers in legend is pertinent in the exposition of Comanche attitudes towards sorcery. 754

Case 21. Sorcery Contest
Informant: Breaks Something

"At one time some Comanches and Cheyennes were camped near each other. Among the Cheyennes was an evil medicine man who was using his power to kill people. When a certain Comanche medicine man heard of it, he decided to go over and see him. So he mounted his horse and rode to the sorcerer's camp. When the Cheyenne came out to greet him, he said he had come to visit and would like to smoke.

"The Cheyenne invited him in and seated him on the south side of the tipi next to the sun, taking the place on the north side himself. The host then took his long pipe, filled it, and lighted it with a coal from the fire. He politely asked his guest how he would like the pipe tendered to him. The Comanche said that any way was all right. He accepted it with two hands and inhaled four times. On the fourth puff he felt some poison enter his body, but he said nothing; he blew in the pipe and handed it back.

"Then the Comanche felt of his belly and blew a yellow-hammer feather out of his mouth. He offered it to the Cheyenne saying, 'What do you mean by this? I found it in your pipe stem!' The Cheyenne told him he could do whatever he wanted with it.

"The Cheyenne now took his turn to smoke. He took three puffs, and on the fourth he felt a pain in his side. Wiggling about, he blew until he blew an eagle feather out into his hand. Looking at his guest he said, 'What do you mean by this?'

"The Comanche looked innocent and answered that he knew nothing about the feather; since the pipe belonged to the Cheyenne, he presumed that the feather did too. The Cheyenne gave it to his adversary, and the smoking continued.

"This time the Comanche smoked; on the fourth puff he blew a black bug out of his mouth into his hand. 'What is this?'

" 'I don't know; it must be yours.'

" 'Not mine; this pipe belongs to you.' And the Comanche gave the bug to the Cheyenne, passing the pipe to him, too.

The Cheyenne again smoked. This time after the fourth puff, he blew a tarantula out of his mouth. 'What is this! See this tarantula of yours!'

" 'No, no. That pipe is yours; you must have put it there.'

"And again the Comanche smoked. This time he blew out a cockle burr. 'What is this? Look at this thing from your pipe!'

"But when the Cheyenne took his fourth turn, he had a mighty pain. He blew and blew, but he couldn't blow out the cause of the pain. It was caused by a barrel cactus put in the pipe by the Comanche's medicine.

"The Comanche arose. Thanking the Cheyenne for a very pleasant day, he went home. No sooner had he reached his camp than he heard cries from the Cheyenne camp. Their medicine man had died. The cactus had stuck in his throat.

"The next day some Cheyenne came to the Comanche medicine man bringing a horse loaded with gifts in appreciation for killing that sorcerer."

In a variant of this legend given by Eagle Tail Feather the plot struc- 754
ture is identical, but the scene is laid in an Arapaho camp where "the Arapa-
ho medicine man, who was hated by his people, lived alone with his wife to
the east of the camp." In the case of the Cheyenne as presented in the
version given above we have clearly a reading of Comanche attitudes into
the case as Cheyenne attributes. The Cheyennes, so far as field study could [171]
determine it, did not possess the sorcery complex.

To sum up sorcery as a crime: Expressed attitudes and the instances 754
cited indicate that sorcery was a socially disruptive power, looked upon
with social disapproval. Isolated instances of sorcery were handled as offen- 683
ces against individuals, though there was no single established social 626
machinery for the need. The diffuse sanctions intrinsic in all social relations were always pressing upon the person who used his medicine powers for bad ends. Such a person was dangerous and social intercourse was withdrawn, eventually leading to overt ostracism and a kind of imposed segregation of the pariah on the edge of the camp. (This segregation seems to have been self-assumed in that there does not appear to be any evidence that the sorcerer was told by anyone that he had better move out. We take it that he was simply frozen out.) Some possessors of medicine powers were compelled by that very power to use it on other people to protect themselves from the ravages of that power. Such excessive and indiscriminate use of power became a social menace not to be tolerated and the result was on occasion a deliberate formation of a social policy to meet the situation. People decided that such a person must die and then laid out a plan as to how the execution could be effected. This was done through the medium of a seemingly dispassionate execution through delegates.

The scarcity of cases of this sort leads to two alternative conclusions: either (a), there was not much use of sorcery attributed cumulatively to individuals; or (b), the accumulated irritation against the users of black magic did not often reach the point where it precipitated direct action on the part of the band. This would reflect either the lack of geared machinery for moving society against public offenders or that the Comanche failed to get obsessive about sorcerers.[2]

INDIVIDUAL ACTION DURING THE COMMUNAL HUNT

In approaching consideration of the rules of the communal buffalo hunt, 224
we might look with expectancy towards something more definite. For it is at 689
this point that the tendency to evolve a definite political expression of

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[2] Professor Ruth Benedict observes, "Sorcery is a fear-projection, and the Comanches were not ridden by fear."

224 689 social authority emerged most clearly amongst the Plains tribes. "Indeed," Professor Lowie has written, "disobedience to their (the soldier-constabulary) orders on that occasion and consequent imperilment of the food supply may be regarded as the one crime against society recognized by all the Plains tribes."[3]

The Comanches are the great exception. To prove that it was entirely foreign to his people, White Wolf cited the experience of a Comanche who was living with the Cheyennes. In his ignorance this individual violated the Cheyenne law by seeking out the herd alone. In consequence, he was visited by the Cheyenne Dog Soldiers, who began slashing his tipi and blankets and killing his horses. The Comanche vigorously protested the punishment to the leader of the group; he argued that it was no offense to hunt alone among his people; he had not known that the Cheyennes felt differently about it.

The Comanches were not unmindful of the need for limitations of individual action. The spontaneous germ, social recognition of communal danger which lay in individual hunting, was clearly there. Experience had taught them the danger of stampeding a herd. Such measures as they did develop show how naturally the buffalo problem did become a focal point for the excrudescence of criminal law in some originating Plains tribe. Thus it was said that if the chief *thought* a certain man was likely to sneak out alone or to break before all were ready, he told the *people* to keep an eye on that fellow.

Suppose some rugged individualist escaped the "eyeing," however. Slope recalled an occasion when he was on a hunt and one man crept out from the camp before daybreak, disregarding the impropriety of his action. While the others were still dreaming of shooting buffalo by the hundreds, he was out shooting those he could get, not stopping to butcher them, eagerly pushing on while the game was good. The band rose early too. The hunters were soon in the field. It was not long before they stalked upon the carcasses. Indignation was high. They moved to drastic action. The hunters pulled their skinning knives and slashed the hides to shreds. The chiseller would have no robes. Then they vindictively scooped sand and dirt from the ground, rubbing it soundly into the flesh. That fixed the sneaker. He knew what they thought of him. The hunt leader pointed the finger at him and told the people to keep an eye on him thereafter. He suffered no physical chastisement, as he would have among the Cheyennes. But the incident and the reputation it left must have dogged him.

Beyond this, however, the Comanches did not go.

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[3] Lowie, *Primitive Society*, p. 415; affirmed also by Professor Boas, cf. *Anthropology*, (Encyclopaedia of the Social Sciences, vol. I, 1935), p. 89.

RITUAL AND EVIDENCE

LEGAL CONSEQUENCES OF SORCERY

The occurrence of supernatural sanctions may be legally irrelevant, for 121
sin need not be illegal. But sometimes an act may be both sinful and illegal and the invocation of a supernatural sanction is one way of dealing with a grievance. When the sanction depends on invocation by the aggrieved or by an official, we have one form of resort to law—though it be also, or even exclusively, religious law.

There is a notion current among social scientists that religious tabu precedes legal strictures in the hypothetical time sequence of social development. Law emerges from religion, they say. This is one of those over-generalizations which trap seekers of sequences. Because in our own social history and that of Greece and Rome we can note an early precedence of religion as a source of some law, or because in some primitive societies tabu and supernatural injunction dominate human conduct, does not mean that such circumstances are characteristic of human society in general.[1]

Yet this erroneous notion is commonly accepted as self-evident fact. 121
Harry Elmer Barnes' restatement of Franz Oppenheimer's thesis may be 688
noted as an example. "Primitive punishment is inflicted either to remove the stain of impurity from society or to prevent a supernatural being from taking revenge on the tribe."[2] This is partly true of the punishment of murder among the Cheyennes. It would also be true for the punishment of incest among most natives of Australia. It holds only in very minor part for the Comanches. In none of the incest cases will the reader find a trace of fear of the supernatural expressed. Though religion penetrates the legal complex, law in this society does not reinforce religious beliefs.

Like all Indians, the Comanches were essentially religious. Their religion 771
shows affiliations with characteristic forms of the Plains and in some respects with the Shoshonean peoples of the Great Basin.

It was an exceedingly simple, highly vital religion. The concept of the guardian spirit[3] was its heart and core. Success and excellence in any action

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[1] Mr. A. S. Diamond (*Primitive Law*, London, 1936), has recently attempted to demonstrate the lack of validity of the "law from religion" doctrine by an historical examination of the development of the early legal codes of Asia Minor and Europe in particular. The codes, however, are the terminus, not the beginning of primitive law, a fact which makes his argument spurious as far as legal beginnings may be concerned.

[2] H. E. Barnes, *The Story of Punishment* (New York, 1924), p. 3.

[3] For the cultural significance and generalized nature of the complex see Ruth Benedict, *The Concept of the Guardian Spirit in North America* (Memoirs of the American Anthropological Association, No. 29, 1924), p. 29.

771 or trait depended on power given to man by some supernatural being. The supernatural beings were animistic objects of nature—birds—the hawk, the eagle, and humming bird; animals—the bear, the otter, bison, rat, wolf, and others; reptiles and fishes; even insects. All were living spirits who spoke the language of man and who possessed special attributes or powers which they could give to men as medicine. Other spirits were the imaginary environment: a whole fabric created by man's fancy, made real by dogma. These were the dwarf people, who lived in the mountains; the water babies, who lived in swampy places; the dead reincarnated as animals; and the ghosts of men, who were likely to turn up almost anywhere. By association, medicines were usually similar in some respect to notable qualities possessed by the prototype of the respective guardian spirit. Lightning and thunder gave power, too, but the earth and the sun were akin to deities. They were active in the affairs of men, yet above that individualized pity which led spirit-beings to bestow medicine powers on an earthling.

The essence of the religion was found in the relation between an earthling and his guardian spirits. Power came in vision visitations. It was a dream phenomenon, or hallucinatory experience. It sometimes came uninvited. More frequently it was sought.

A vision quest entailed a solitary visit to a mountain, or to the grave of a dead medicine man. Fasting and certain rituals were involved, though no self-torture was used by these people. The watch lasted four days; it might last longer. The Comanche stayed at it until he received his vision, or else abandoned the quest.

Religious practice consisted in first instance of the patterns for obtaining supernatural favor. Behind these were relationships which prevailed between men and their guardian spirits, together with certain notions concerning supernatural forces in general: so those pertaining to Coyote, the trickster, or to the earth and the sun. In almost every instance, it must be emphasized, these relationships and their observance were a matter of *individual* concern. The Comanche did have medicine societies of a sort, but they were limited both in extent and in importance. Dances or ceremonies were few and simple. Most of them were without religious significance. The great exception, the Sun Dance, was a relatively late acquisition
[771] from other Plains tribes.[4]

Religion being thus an individual matter save in exceptional cases, the tabus which it enjoined were also limited in importance to the person concerned. Infractions of tabus which endangered the community were 771 foreign to the Comanche mind. Hence any idea that crime and punishment must spring from tabu proves in this instance sterile. It was the holder of the medicine, not the community, who suffered if the strictures of associated tabu were overlooked.

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[4] R. Linton, *The Comanche Sun Dance* (American Anthropologist, vol. 37, 1938), pp. 420–428.

With this, however, we have not slammed the door on the possibility of 754 supernatural admixture in law. Among the Comanches we find it in sorcery.

The Comanches made no basic distinction between a medicine man (shaman) and sorcerer. Medicine was a two-edged sword. It could cut for good or evil. In a tribe where the majority of adults (especially males, but also women) held some medicine, those who were recognized as medicine men were those who possessed at least one *outstanding* thaumaturgic power. To be "evil" was to use one's power to the damage of the well-being of a fellow tribesman. Hence, the sorcerer was tagged "evil medicine man." Correlatively, to be "good" was to use one's powers to advance one's well-being in hunting or war without harm to others of the in-group, or to use the power beneficently for the curing of others in the band or tribe. A shaman could be wholly good; he could be good and evil; he could be almost totally bad. It depended on the path he followed.

One interesting psychological feature of Comanche sorcery was a not unusual compulsion to use medicine powers against some innocent victim without—even contrary to—the conscious desire to do harm on the part of the shaman. Should a dream "tell" a medicine man to cause the illness of another person, it became imperative that it be done. Failure to so function meant death to the shaman; his power turned on him. "No Bed could not help herself," observed She Invites Her Relatives, "The dream came. She *had* to put the curse on the person dreamed of. Else the sickness would come on her."

The sorcerer's curse was done by "throwing" a foreign substance into the body of the victim. It was done in secret. The exception was when sorcerers gathered together to do battle in tournaments of competitive skill. Unless the sorcerer's medicine was unusually powerful, he had to operate in the near vicinity of his victim, for it was difficult to throw the substance far. Feathers were the choicest medium; thorns, cacti, crystals and spiders were among the varied possibilities. Sorcery thus had some tangible vehicle. The projecting power was worked up with songs and prayer such as had been revealed to the sorcerer by the guardian spirit.

Sorcery was aggression. It was violent trespass against the individual's 754 right to life and well-being. Here is the conflict situation. To meet it recog- 627^ nized measures were at hand.

x627 683 To combat sorcery counter-medicine was first available. This was a socially acceptable action which in content was precisely the same as was the illegal grievance against which it moved.[5] Counter-medicine was used when a power surpassing that which lay in the curse was available. An alternative was to cause the sorcerer to break his tabus. On the purely physical plane, when neither of these two methods was successful or available, coercive threats were hurled, with the result that the accused took the conditional curse, or in rare instances either out-faced the "prosecutors" or was violently attacked by them.

x627 787 694 But first there was the problem of evidence. Here the situation was different from that we have observed in the marital situation. The act of aggression was secret and the aggressor a dangerous person. The problem, therefore was one not only of evidence—it was also one of detection.

With a number of medicine owners in the tribe, and every shaman a potential sorcerer, the finding of the guilty one was not a simple matter. The recourse was to divination.

When a tribesman had fallen under the curse of a sorcerer, only a powerful shaman could discover the nature and source of the magic. For this each medicine man had his own special technique. In all cases, however, its essence lay in divination. The general pattern was to divine by waving an eagle feather medicine-fan over the patient while singing medicine songs. When the power was strong enough, the image of the guilty sorcerer appeared beneath the fan. So certain was the technique in the more common cases that our informants explained, "When a feather is shot into a person, a medicine man can see just like reading a newspaper who put it there." The words of a diviner were accepted truth for those associated with the sick man. They stood as such unless the accused sorcerer was firm in denial.

787 x627 755 Other divinational techniques were found in the peyote and beaver ceremonies. The former is a relatively modern, and the latter an ancient religious rite. The beaver ceremony was a notable curing service; it was one of the few Comanche religious forms in which there was group participation.

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[5] There is nothing incongruous in magic as an instrument of law. When used as a recognized sanction, it serves a justifiable end, and is therefore "good." It must not be forgotten that all sanctions, whatever their nature, work a harm to the wrong-doer. It is this that gives sanctions their power of restraint. So Malinowski sees sorcery as a means of maintaining social order in Melanesia, *Crime and Custom*, pp. 85–94. Hogbin goes with him in interpreting the data from Ontong Java. *Law and Order in Polynesia* (New York, 1936), pp. 216–223. Evans-Pritchard sounds the same note for the Zande of Africa, *Sorcery and Native Opinion* (Africa, vol. 4, 1931), pp. 22–55.

The ceremony, which lasted several nights, was rich in ritual detail and symbolism. As a by-product of the ceremony, detection of sorcery could occur. At a stage of the ceremony the officiating beaver medicine-man went into a trance. It was then that he "saw" the sorcerer. 787 627x 755

The peyote ceremony was drawn upon in much the same way. In using the peyote ceremony to cure a sick person, the ritual leader—who does the curing—received a vision of the sorcerer.[*]

The diviner, when he was powerful enough as a doctor, undertook the cure as the next step. Divination revealed the sorcerer and also the nature of the curse. Usually the doctor knew well enough the relative strength of his medicine when matched with that of the sorcerer. When he thought his best would equal or surpass the power of the curse, he threw his medicine against it. When he was doubtful, he took a chance on doctoring, or he recommended another specialist, or he took to the ruse of advising how the sorcerer could be brought to grief by causing him to break his tabus. When this succeeded, it automatically killed the powers of the sorcerer's medicine, thereby nullifying the curse. 627^ 755 683

Curing and throwing back the curse were in Comanche society essentially one and the same. It was defense and revenge in one. The theory was that a curse let loose must find a goal. Under the direction of the curing doctor a counter-medicine—an anti-body—was induced into the body of the patient and the curse was driven out. This was most commonly demonstrated to the relatives of the sick one by pulling the foreign substance—the feather or whatnot—from the patient's body. It was good showmanship. The doctor breathed on it, rubbed it four times, and blew it from his palm away into the air. The patient got well; the sorcerer got sick. For the sorcerer there seems to have been no further cure. The only escape from this was for the sorcerer to recall his medicine before the cure began. Otherwise, either he or his intended victim died.

Post Oak Jim was once the mark of a rival medicine man in a case which illustrates this.

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[*] A good many Comanches are peyote devotees today. Meetings are held regularly throughout the year. Peyote is used for worship and curing, but the sorcery aspect has, so far as we know, dropped out of Comanche medical theory. This is in sharp contrast to Mescalero Apache practice, whereby peyoteism has become a vehicle for sorcery rivalry as described by M. E. Opler, *The Influence of Aboriginal Pattern and White Contact on a Recently Introduced Ceremony, the Mescalero Peyote Rite* (Journal of American Folklore, vol. 49, 1937), pp. 143–166. For definitive treatment of peyoteism see W. LaBarre, *The Peyote Cult* (Yale University Publications in Anthropology, No. 19, 1938). 796 276

Case 22. Sorcery: Post Oak Jim Repels a Curse

755 *Informant: Post Oak Jim*

"I was fire-tender[7] in a peyote meeting. That medicine man was outside. He was in the prime of life; his power was strong. We were inside there singing and praying. Things were going along, when of a sudden I felt a stab in my back. It was as if somebody had shot me there. Oh! I thought I would die. I spit up blood. 'Now I am killed,' I thought. (With much hacking and uncomfortable grimacing Jim showed just how he felt.)

"Stumbling to my feet, I pushed my way through the door to the outside air. I fell flat in the grass; it was heavy with dew. I lay there breathing. So much blood came up that it made a big pool.

"I got up again and entered the tipi. They were all sitting there. I walked around the circle to my place and sat down. They asked me what was the matter. They saw me bleeding there.

" 'Oh,' I said to them, 'I am not feeling so well.'

"The leader gave me some orders. 'Fix up the fire! Now come over here, and sit by me. That medicine man out there is doing things to you.' The leader did some great things then. He picked a live coal from the fire—a red hot one. He put it in his mouth, like that. He came close to me. His mouth met mine. Four times he blew into my mouth. Uh! I felt better.

" 'Now,' he told me, 'you go outside and air your clothes to the four directions. South! West! North! East!'

"When I reentered, they sprinkled holy cedar on the fire. The leader brushed the smoke over me with his eagle feather fan. The blood had stopped. I felt better. I was well.

"The other medicine man died in the fall while he was feeding his horses."

In this particular case there probably was no contractual set-up involved, unless implicitly. The doctor was right at hand; he stepped in as we today expect any medical man to do in an emergency. Whether the peyote leader had any claim on Post Oak Jim for his services or whether Post Oak offered any recompense was unfortunately not determined.

Not always was counter-medicine so immediately successful: It happened more than once that the sorcery was so powerful that no other medicine man could turn it back. Here was a desperate situation. Was the victim to die helplessly? Not among the Comanches. A war-like people, with war-like notions backing up their law, they were not without further means. The treatment of Barking Buttocks reveals what could happen.

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[276] [7] The fire-tender is one of the four ritual offices in a peyote ceremony. The tender sits beside the door so he may easily bring in the wood. The other three sit opposite the door before the altar.

Case 23. Sorcery: Bull Elk vs. Barking Buttocks
Informant: That's It

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"Barking Buttocks was using his medicine in a bad way against Bull Elk. Bull Elk was awfully sick. They called in one doctor after another to work on him. Not one could do a thing. One right after the other, they gave it up. Finally, they called on Traveller's Road. He was a captive, but he had medicine.

"This captive got up his songs; he acted as though he were flying over Bull Elk with his medicine feathers, so he could see who had put the spell on Bull Elk. Then he started right in doctoring. He did his cure three times, but nothing happened.

"Bull Elk had four brothers. Two of these brothers now talked to Traveller's Road. 'What did you learn?' they asked him. 'What is it in our brother there?'

" 'It is a bad medicine,' he replied. 'It is the evil medicine of Barking Buttocks.'

"The brothers looked at each other. 'Well now,' they said, 'We'll just ask him to remove that curse from our brother there. We won't do him any harm, friend. No, we won't attempt to harm him. We promise that. We will just ask him to withdraw his medicine. But how do you know it is the medicine of Barking Buttocks?'

" 'When I was flying the feathers over your brother, I saw his shadow. The medicine of Barking Buttocks is in him,' was the answer.

"That settled it. On the next morning Bull Elk's brothers sent his wife to seek the bad medicine man. They told her to invite him to come to the tipi where Bull Elk lay dying. The brothers were waiting in the tipi, sitting near the door, the sick man lying at the rear. Barking Buttocks came, and they moved apart for him to sit between them. Both of the brothers had weapons.

"They started talking to the sorcerer. 'Friend,' they said, 'We have a question to ask of you. There is our brother. He lies sick, about to die. You are the man who has done this thing. Take pity, we beg of you. Take pity on our brother there. Can you not see that he is an old man, even as you? Take away your medicine. Take it home with you.'

"Barking Buttocks replied that he had nothing to do with it. Who gave them the idea it was his medicine? Who said he was responsible anyway?

" 'Traveller's Road,' they answered.

"Now Barking Buttocks was angry. 'That captive has no sense,' he cried. 'He is a fool. His medicine makes him lie. Why do you listen to him? Bring that idiot in here so I can talk to him.'

"The wife went out to get the doctor. He came through the door, and they made a place for him to sit by them. Traveller's Road walked by. 'No,' he declined, 'I have my place.' He sat down at the foot of the sickbed. As he listened, one of the brothers explained the reproach of Barking Buttocks.

"Traveller's Road listened to the end. He was gravely silent. At last he pointed the finger at Barking Buttocks. 'How *can* he deny it?' he asked them. 'How can he deny it when he *knows* he did it?'

" 'Captive,' sneered the sorcerer.

" 'I saw his shadow over your brother,' reiterated Traveller's Road.

x627 683 755

" 'What about it, friend?' they pressed Barking Buttocks.

"He did not answer them. He went above them to the Sun. 'Father,' he swore. 'Early in the spring let the first lightning and thunder take my life if this thing be true!'

"The brothers sat back. They were satisfied. 'If you say such a thing, we can't dispute you. We drop it.'

"During the winter Barking Buttocks with his family drifted away from the main camp. In the spring he went hunting with his nephew. The first storm of the season came: a cloud rolled up in the sky. Lightning flashed! One, two, three. The fourth bolt found Barking Buttocks. The medicine man fell dead. That settled the question. He was finished and Bull Elk was saved."

In this situation four approaches were taken: two on the supernatural plane, one on the profane, and then back again to the supernatural. There was the usual attempt to overcome sorcery with medicine. This failed without giving so much as a trace of the sorcerer. Then followed Traveller's Road's success in detection and his failure to cure. Direct action was taken, beginning with indirection. The sorcerer was entreated. The sorcerer denied responsibility. With denial a new tone appeared. The atmosphere was charged with threat of violence. Conciliation had failed; now came into play the law's earthly sanction—force. In this case, however, it did not come to violence. The medicine man preferred the supernatural. He introduced the fourth and final term by invoking the conditional curse—not on the accuser, but on himself.

The need for authoritative evidence had to be met. As between two medicine men, whose word was to be taken? The interesting thing in this case is that only the word of one party was tested. It was always so. The test was—"Is Barking Buttocks guilty as charged, or not?" That was the question put to the sun. The test was not—"Is Traveller's Road or Barking Buttocks the false speaker?" Hence the sorcerer called the conditional curse down upon himself. The presumption must be that either the sorcerer believed himself innocent, or else held the conditional curse lightly. It would be a bold Comanche who held to the latter. Skeptics may raise an eyebrow as to the end of Barking Buttocks in the manner described. Still there is legal significance in the native belief in the sorcerer's demise—for belief makes the sanction real as example for those who survive. The conditional curse in the sorcerer's trial was therefore the supreme appeal.

As counter-medicine occasionally failed, so also did sometimes threats of direct action. After all, while law is law, and sorcery illegal, sorcerers were dangerous personages. (One thinks twice, and more, before going to law with a gangster.) One trod cautiously when going to the mat with a sorcerer.

The diplomatic game of threatening sanctions was played in Comanche law: there was much bluster, but we know of only two cases in which actual physical harm was done the sorcerer (aside from the planned executions above). One of these was a "lynching," the other a murder, but done within the family. In the case of No Bed, the sorceress whose story is recounted below, the attempted violence was circumvented. Indeed, so circumspect was the handling of sorcerers with mundane techniques, so much was it front without substance, that such a terrorizer as Looking After His Son could bully the would-be prosecutors into submission. 627x 683 754

Case 24. Sorcery: ? vs. Looking After His Son
Informant: Eagle Tail Feather

"Looking After His Son was a boastful medicine man always talking about his power. Whenever he went among the people it was his boast that he could kill anyone within a vicinity of a quarter mile, should that person raise his displeasure. After all this big talk people began to get suspicious of him.

"One day a young man fell sick. People took to muttering about Looking After His Son. Rumors flew about until finally Looking After His Son heard that people were accusing him of the deed. He heard that the relatives of the sick youth were threatening to kill him.

"It was not long before a relative of the youth who lay ill came to call at the sorcerer's lodge. Looking After His Son welcomed him. 'Hello, friend,' he said. 'I am happy to see you here. Sit down. We will tell stories tonight.'

"At midnight the visitor made excuses to go. The medicine-man motioned him to keep his place. 'I have a certain question to ask. You must accept it,' he ordered. 'I understand your relatives are saying I cause them death. They are making threats at me. Now you look out. Before you leave here, swear that you will stop them, or else—. Well, I'll fix you for certain.'

"The man swore.

"Early the next morning, without stopping for breakfast, he sought out his kinsmen. He pleaded with them for his own sake not to offend the sorcerer further. They heard his plea, and deemed it wisest to acquiesce; they said nothing more about Looking After His Son after that." [602]

It was the opinion of the narrator that Looking After His Son was as guilty as guilty can be. Yet what could be done about it? Sorcery was the the affair of the relatives; they shirked it with cold feet. The sorcerer's bold front and the power behind it were his impunity.

A comparable outrage was recorded from Carrying Her Sunshade. It was a situation in which she figured as a girl, thus placing it shortly before 1860.

627 *Case 25. Sorcery: Salt Worn Out vs. Robe On His Back*
754 *Informant: Carrying Her Sunshade*
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"Robe On His Back propositioned Salt Worn Out's wife and she turned him down. Robe On His Back did not like that one bit; so he brooded over it, and settled on revenge. His medicine centered in a black kerchief. He worked on this handkerchief with his spells until it brought a curse on Salt Worn Out's little daughter. She bled from her lungs.

"My husband was a medicine man, so Salt Worn Out brought his daughter to us. My husband worked and worked, but he got no results.

"Finally he called on me, 'Breathe four times on her,' he commanded. I breathed, and I breathed, and I breathed, and I breathed—behold! The blood stopped flowing. 'Again,' ordered my husband. I breathed, and I breathed and I breathed, and I breathed. He had me do it over and over until the girl felt better.

"Next he advised Salt Worn Out to move his tipi over to ours, so we could doctor during the night.

"For quite awhile my husband had me repeat my medicine over the girl. It was good medicine, but she never got completely well. We had to find out who was causing the illness, so my husband took out his copper bowl painted red about the rim. He filled his bucket with water, and sang his songs. Then he called us all to look into the water. What did we see but Robe On His Back holding his black handkerchief! Every time he fluttered the kerchief, the girl coughed blood. My husband called the girl's mother to look in, too. 'You have refused Robe On His Back,' he told her. 'I have seen this thing' (in his dreams). This was the proof of all the trouble.

"Salt Worn Out was a coward. He was afraid to protect his daughter. He shrank from approaching Robe On His Back. He shrank from even so much as begging him to remove his evil medicine. Never did he think of threatening him. Instead he stayed with us for a whole year to keep our help and protection. Finally, he decided to move away; they drifted off to some other band where they hoped they could escape from Robe On His Back's hatred."

In this instance the issue of guilt was not put to the test because of Salt Worn Out's cowardice. Here there was not even a preliminary blustering before the back-down. Robe On His Back was free from legal molestation, showing again how distinctly sorcery was a tort. Success in handling supernatural aggression hinged, like success in prosecuting the aggressor against marital rights, upon relative power—either supernatural, or physical and moral. In handling sorcery, however, it was not so easy to attain a balance. Especially is this true of the second phase of anti-sorcery procedure—that which was followed when counter-medicine had failed. We have seen the situation in which the case proceeded to its perfect legal end, that in which Barking Buttocks appealed to the conditional curse. We have revealed two instances in which fear of the aggressor stilled the aggrieved. We were able to record but two cases wherein actual physical coercion was attempted against the body of the sorcerer.

Case 26. Sorcery: ? vs. No Bed
Informant: Carrying Her Sunshade

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"No Bed was a powerful medicine woman. Her power was one of the strongest in the tribe. She shared it with her daughter, whom she had initiated into its mysteries. Quite a few rules went with the medicine, such as the tabu against yellow paint. Another was that whomsoever they dreamed about, on that person they must put the curse. If they did not make bad medicine against that person, they themselves would sicken and die!

"No Bed dreamed one night. She dreamed about a young man in the camp, a young man well-liked by every one. Even No Bed liked him. Nevertheless she made her medicine. Pretty soon the poor boy fell sick. The wasting-away sickness was upon him.

"Everyone thought about No Bed. Sure enough, the medicine man on the case saw she was guilty, so he had them send for her. She refused to go at first. 'Why do you come for me?' she complained. 'I have no power. What do they want me for?'

"The messenger begged her. 'Do come before it is too late,' he implored. 'You can remove the curse if you come now. Before long it will be too late.'

"Well, she would go along, she said. But all the time she kept repeating over and over that she had nothing to do with it and could be of no possible use. She was still wagging her tongue as they approached the tipi, when they heard a wail emerge. She stopped. A great chorus of mourning came out from the sick lodge. The boy was dead!

"No Bed took to her heels and ran. Her escort seized a spear, and charged after her. She sped for the lodge of Grey Flat Lying Object, who was a chief of the Quick-Stinger band. She rushed through his door, and throwing her arms about him, she begged for protection.

" 'Well, what is the matter, then?' queried Grey Flat Lying Object. No Bed babbled out her story. 'Yes,' the chief assured her, 'I will give you protection as far as I can. Now sit down; let us talk this thing over.'

"Grey Flat Lying Object recognized her danger. He knew she would be killed if she stayed in camp; he could not protect her forever. He decided to spirit her away until the trouble blew over. No Bed assented, so her daughter was sent for. The two stayed hidden in the chief's tipi until dark, when Grey Flat Lying Object led them out of the camp and away. No Bed left her tipi standing with all her belongings so as to fool the people. By hard travelling they found a camp of Caddo in the east. Grey Flat Lying Object left them there, and returned home.

"No Bed and her daughter lived for many years among the Caddo. The daughter is still living; she is a Christian now, but she still has her medicine. It is no longer so bad now; times have changed.

"No Bed died some years ago. After she came back to our people she befriended an old man. She cooked him food and helped him. But that was because she was going to put her bad medicine on him. A certain medicine man dreamed about this. He hurried to warn the old man of his danger. 'There is only one way you can save yourself,' he told him. 'The next time you see that old woman, put some yellow

*627 paint on yourself in some secret place.' When this happened, it broke No Bed's
754 tabu against yellow paint—she was killed in the end by her power."

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Here is a case where we see a chief (Grey Flat Lying Object was one of the great Comanche war leaders) taking the role of the champion in a new situation, this time acting for the defendant. We *should* know something
[183] of his motives in expousing her cause. We found no evidence of institutionalization of a right of asylum.

The next and the only other case we have in which a *real* attempt was made by relatives of a sick person to do direct violence to a sorcerer comes from Dr. Mirsky.

Case 27. Sorcery: Chew Up vs. Bull Roarer
Informant: Talker

"There was a man named Chew Up. He was a Yep-Eater, and had just returned from a war-raid. He asked his father, 'What is that tent doing there?' (pointing to a tipi close to his own).

"His father said, 'Your brother is very ill.'

" 'And what may be the matter with him?' he asked.

" 'Some one has shot him with his medicine. Some one put his curse on him.'

"Chew Up went into his father's tipi; there he found his mother getting food ready for him. His father followed him in and addressed him. 'Son, there is something I cannot keep from you. I cannot keep you in darkness. Bull Roarer is doctoring your brother. Bull Roarer is a very great medicine man—his diagnosis is always right.' The father told him what Bull Roarer had discovered.

"At that moment the mother's brother of Chew Up entered. 'Nephew,' he hailed him, 'you have returned. I overheard you talking. That is why I came in.' That was all he said; taking his leave, he went to the sick man's tipi.

"Chew Up rose and followed him. He found the uncle sitting at the foot of his brother's bed. Chew Up gave sympathy to his brother, encouraging him with promises of his recovery. Then he turned to his uncle. 'You are a medicine man who can doctor. Why don't you doctor him?' he demanded. To his uncle's wife who sat at the far end of the tipi he then gave an order to leave. As soon as she was out the door, he drew his knife.

" 'Oh,' cried the uncle, 'I have failed. I cannot relieve him.'

"As he said that, Chew Up seized him by the hair, and pushing down his head, he stabbed his uncle twice. Then he went out. He had killed him.

"He went striding back to his father's tipi, where his mother was still cooking. 'Mother,' he said, 'I have killed your brother. Now go tell your sister-in-law what I have done to her husband. But tell her this, she is not to mourn for him.'

"His mother went to her sister-in-law with his bidding. 'Come,' she directed her, 'we will get your husband's body out of the tipi.'

"As soon as they started to carry out the corpse, Chew Up followed after them, 627x
repeating his warnings to his aunt. 'Don't wail,' he commanded the bereaved 754
woman. 'If you wail for him, I will kill you. Go bury him, and when you have done
it, go back to your own people.' 683

"The evil medicine man was buried unmourned.

"That night Chew Up himself went to stay with his elder brother. The young man was so sick that he could drink no water—always the sign of a person at death's door. All night long Chew Up held his brother in his arms, until—just as the white dawn came—he died. They wailed for him, and they mourned. The father of Chew Up was a war chief and a rich man. Chew Up explained, 'I am but following the pattern set by my father.'

"What lay behind it all was this: the medicine man uncle had caught his nephew lying with his wife—not in actual intercourse, however. For this reason he had put the curse on him. *Because the quarrel was in the family, no one else could take it up or do anything about it.* (Author's italics.)

"Just as all this quieted down, Chew Up's other elder brother came home from war. (Chew Up was the youngest, the one who died was the middle brother.) The eldest brother admonished Chew Up. 'You have committed the unheard-of thing: you have killed our uncle.'

"And Chew Up replied, 'Is it as nothing that I should sit and watch my brother being murdered? Should I have done nothing?'

"To this his elder brother retorted, 'You have done something terrible. You shall not live long.'

"Chew Up answered back, 'I am going to live a long time.'

"The elder brother was killed not long after, and Chew Up lived to be an old, old man."

The thing that strikes hardest in this history of Chew Up is the way in [671
which it emphasizes so completely the non-criminal nature of homicide.
But it is also breath-taking in how fast it moved through the ordinary 682]
middle-stage of beseeching the sorcerer to remove the curse. "You are a medicine man, why don't you doctor him?" Not an entreaty, but a sarcasm. Then the death-blow. Here the sorcerer faced a tribal strong-man, a man of wealth and position with the pattern of family pride to uphold. How differently the law worked with such a man on the aggrieved's end of the stick than when it was put in the hands of Salt Worn Out to wield for justice's sake!

Comanche law, because it was a personal and a kin law, *did* swing upon 671
valor and guts. It was a matter of out-weighing whatever power the 627x
offender had on his side. In cases of sorcery this was usually done in the attempt to throw counter-medicine into the scale. But unless the counter-medicine was stronger in its supernatural power than the medicine behind

671 x627 the curse, its legal value was nil, for it was a sanction without teeth. In exactly the same way the application of physical force as a sanction turned about the point of relative powers. So in this type of case we found four basic outcomes: 1) where the aggrieved party was a weakling there was no prosecution (Sorcery in this respect presents a contrast to adultery and wife-stealing, wherein the aggrieved had to act. In these latter situations it was purely bravery against bravery, but bravery vs. sorcery seems to have been another thing.); 2) where the prosecution was forceful and so also was defense, the defense being more so, in one instance at least, the prosecution backed down—a primitive "*nol pros*"; 3) where the prosecution was forceful and/or the defendant was weak, the sorcerer was driven out or killed by a party for the defense (In the event of capital punishment through violence we do not know if it would give rise to blood feud, because in the only case which reached the bitter climax, the killing was within the family circle.); 4) where the prosecution was forceful and so also was the defense, the deadlock over the dispute of fact was broken by recourse to the conditional curse on the part of the defendant. The supernatural "tried for guilt," and acquitted or executed the defendant in one act. A reasonable length of time, namely, until the next change in seasons, was allowed for the judgment to take place. The issue was not hurried, but its results were accepted as final.

FORCED CONFESSIONS: THE THIRD DEGREE

x627 684 It has just been shown how the Comanche utilized divination and conditional curse in sorcery. Now let us see how they set about testing marital fidelity. There were various techniques available to the husband as a prosecutor. These were ritualistic and non-ritualistic. The latter were simple and direct third-degree forms. A man took his wife to a lonely spot to build a fire. If the threat of what was coming did not force a confession from the lips of the wife, the husband then held her prone over the fire, lowering her closer and closer to the flames until she gave the information he wanted. Another method was to choke the woman until a confession was forthcoming. Whipping also served the end. One or the other of these methods was used in six out of the twenty-three adultery cases recorded in this study.

Not only was the confession of unfaithfulness forced in this way, but also the naming of the correspondent. On the basis of such confession suit for damages could be begun.

The case of Bone and his wife is illustrative of how evidence given by a witness was reinforced by such confession.

Case 28. Adultery: Bone vs. Cómatsit
Informant: Visits Her Relatives (niece to Bone) 627x

"Bone and his younger brother were living together with Bone's wife. She was 684 called Little. One day Little was out collecting sticks for the fire; it took her a long, long time, until Bone began to suspect things. He called on his little ten year old sister to go see what his wife was up to. The little girl went looking about. Finally she found the pile of wood near a tipi, so she went over and looked in. There she saw her grown-up sister-in-law lying in bed with a man.

" 'What are you doing there, auntie?' the little girl asked. 'My brother wants you to come home right away. You'd better hurry up.'

" 'Oh,' Little tried to reassure her. 'I just came in here for a smoke. You run along now.'

"The little sister did just that. She ran home as fast as she could to tell her brother she had seen his wife lying in bed in a certain tipi: how she had seen her there with Cómatsit (a Mexican name). Soon after, Little came home. 'Now we are going hunting,' announced Bone. 'Come, brother, we are going after game. We shall not stop to eat. You are coming, too,' he told his wife. Then they started out, but as soon as they were out of slight of the camp, Bone stopped the procession. He ripped the clothes from Little and violently threw her upon the ground. 'Now tell me,' he thundered, 'what were you doing in that tipi?'

" 'Oh, my husband,' Little wept, 'I did nothing there. Your little sister has told you an untruth. She does not know what she says.'

" 'We'll see,' muttered Bone. So saying, he placed his hands firmly on her throat. 'Now tell me,' he commanded. Then he choked her and choked her and choked her.

"At last she gasped, 'Yes, I did it.'

"Then he let go of her. With his freed hands he drew his knife and deftly cut off half her nose. 'Come, brother,' he said. So the brother picked up their wife's clothes, and away they went, leaving poor Little lying on the ground where they had mutilated her. When they got back to the camp, Bone sent his little sister out again. 'Go to our wife's grandmother and tell her to go get her.' So the old grandmother went and found Little and took her home.

"Next Bone and his brother went to Cómatsit to sue for damages because of the offense he had committed. They got most of that man's fine clothes and six horses from him besides."

Another case shows how the third degree instituted on purely circumstantial evidence brought a confession and led to a damage suit which was settled by the defendant giving up three horses. Carrying A Sunshade told how Yellow Bear found a red bead under his bed one time when they were getting ready to move camp. How did that bead get there? It was not [301] his own! And it was of the kind worn only by men. So he called on his *haits*[1] to accompany him with his wife to a lonely spot. Once there they started to "question" her. She denied everything at first, but after they had put

[1] [i.e., his formal friend —Analyst]

*627 684 pressure on her, she owned up that the bead belonged to Touch A Person With A Closed Fist. When these words escaped her mouth, the friend, Little Medicine, shot her dead. Yellow Bear turned away with his friend, and they walked off leaving the dead woman to be sought after by her mother. Later they went over to Touch A Person With A Closed Fist and got the three horses from him.

Such techniques of procuriug evidence, so effective with women, could [562] not be applied to men. Procedure had to rest on the evidence forthcoming from the woman's confession or upon definite knowledge possessed by the husband. When the defendant denied complicity in sexual transgression there could be no suit. Acceptance of guilt by the accused was a necessary basis to legal action. In only one instance were we able to get an example of denial maintained.

Case 29. Adultery: Defendant Denies Guilt and Is Shamed
Informant: Slope

"Early one evening a young man came to see a married woman. Unfortunately for them, the woman's husband came home early and saw the two near the tent. Startled, the young man ran off before the husband recognized him. But the husband questioned his wife to discover the boy's name. She told him who it was: a young fellow still living with his father. Her husband decided to go over the next morning to demand damages. When day came, the husband left for the boy's home. There he found that the offender was still in bed, so he called to his father saying, 'I want to see you. I've come to collect damages.'

"The father answered, 'Who's it on?'

" 'That boy of yours.'

"By this time the culprit had appeared, and they all sat down to talk the matter over. The husband asked the young man to sit next to him, and calling him 'brother,' declared that he didn't want much. Four horses would satisfy him.

"At this the boy spoke up. 'Who are these four horses on?'

" 'You.'

"The youth acted surprised. 'Why you must be mistaken,' he said. Then his father asked him whether it was true or not that he had wronged this man, and the boy denied it flatly.

"This denial enraged the husband. He pulled his knife and slashed off one of the young man's long braids of hair. Throwing it at his feet he cried, 'I was not going to do this, but if you insist on lying like a coyote, I'll sure make you look funny!. The boy and his father sat silent while the husband continued, 'That's all I'll do. *627 I won't take any horses—but you sure do look funny.' And with that he stalked 684 out."

558 This was a grievous insult—doubly so. To be minus a braid of hair made one conspicuous. Everyone would ask what had happened. To be compared

to Coyote was to be held up alongside of that sly, ridiculous, untrustworthy 627x
mountebank who is the *Til Eulenspiegel* of Comanche mythology. The boy 684
took it hard, too. He sulked in his lodge, ashamed to go out and face his 558
friends. He thought his chance to save his face had come when an alarm of the approach of white military ran through the camp. He prepared to die gloriously, but was doomed to disappointment when the whites held out the olive branch.

CONDITIONAL CURSE

The rough-and-ready third degree techniques fit well into the Comanche 627x
picture of war-like life. But beyond these forms there were other means at 782
hand for the husband who chose to use them. These were ritualistic approaches to the supernatural which entered when called upon as a legal force. The supernatural was invoked through conditional curse and oath.

The use of the conditional curse for proof was very specialized, indeed confined seemingly to adultery and sorcery cases. It was known as "sun-killing" ṭaβέβekʌt. In adultery procedure the husband took his wife to a lonely spot and making smoke with his pipe, he addressed the charge to the sun and the earth and sometimes the moon. By these same powers the wife swore her innocence. These powers in their omnipotence knew the truth, and if the wife were guilty, they afflicted her with consumption. The usual fate of erring women who took the curse was, according to native dogma, that of Short Dress, wife of Kóhi. She denied her husband's charge, placing her hands flat upon the earth and calling upon the powers, while her husband smoked. She bade the sun, "May I die when the geese fly from the south to the north if I have done the thing he has charged me with."[8] She died the next spring.

In adultery, as in sorcery, the supernatural played the double role of judge and executor. The case was rested by the prosecutor and there was no more for him to do but await results.

More recent developments put another angle on the conditional curse. 627x
As Comanche women began to feel the emancipating effects of the impact of 177
white contact, they refused to submit docilely to the curse. It was very
unsettling to the men, but even so, That's It laughed as he thought of the 562
startled discomfiture of the first husband to feel its effects. This man had accused his wife of adultery and did not believe her denial, so he prepared a smoke to the sun. And just as he was about to pronounce the fatal words, his wife broke in.

"You are going to make smoke. You want to kill me," she expostulated.

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[8] Some Comanches evaded repeating this oath to us for fear of its dangerous implications.

627 "But you listen, I deny this thing. Now look out! I am going to smoke too.
177 If you are putting the lie on me, the sun will get you instead." That put a
562 different complexion on the situation; the husband was not begging for such
a bargain. "So," as That's It put it, "he called off his sun-killing and gave his wife sugar-words."

Later another husband called the deal and paid the price. A man named Brother-in-law, according to Holding Her Sunshade, tried his wife on false evidence. When he put her to the curse, she made her denial and ended by calling to the supernaturals, "If he cuts off my nose, grant that he shall not live long." Brother-in-law accepted the challenge. He did cut off her nose, and within a month he was dead.

x 627 In earlier days when such notions had not yet occurred to women, there
688 were, nevertheless, other escapes, if the aid of a powerful practitioner
could be enlisted. For in the case of Looking For Fun, we have one fortunate woman who was able to dodge death through the invocation of strong counterpowers.

Case 30. Adultery, Conditional Curse: Looking For Fun
Informant: That's It

"Her husband suspected her of adultery. This Looking For Fun denied. So her husband made sun-killing. Smoking to the powers, he first addressed the sun saying, 'You, Father, know the truth of this matter. As you look down on them don't let them live till fall.'[9] Then to the earth he said, 'You, Mother Earth, as you know what is true, don't let them live a happy life on you.' Whereupon he gave the pipe to his wife that she might make her self-curse.

Even though she was guilty and knew it, she swore to the powers, 'Sun, if you don't believe me, then let me perish. Mother Earth, if you don't believe me, let it be true that I won't live right upon you! Whatever he says, let it be true!'

"That ended the ceremony.

"After a few months Looking For Fun had fainting spells and began to waste away. She was frightened and went to a medicine man for help. He told her to wait to see what his powers offered. After three or four days he came to her and said he believed that the husband's charge was true! The great powers were punishing her. At this she owned up. She told the medicine man she had not confessed because she was afraid of what her husband would do to her. As for the curse, she said she didn't believe in its power and so had lied about it. The medicine man told her that that being the situation, it was too dangerous a matter for him to handle. His power was not strong enough to cope with the sun. He recommended that she take her case to another medicine man who was a specialist in such matters. Looking For Fun was eager and asked her adviser to tell her mother of the situation. The medicine man

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[9] Compare this wording with the Crow Indian conditional curse in coup-counting disputes—"It was I struck the enemy. Sun, as you looked down, you saw me. May the one who lies die before winter." R. H. Lowie, *The Crow Indians* (New York, 1937), p. 217.

went over to her mother and told her what had happened. It would be a good time 627x
to get that other doctor right away, he said, because the woman's husband was on 688
the war path and would not know about it. The mother agreed and they went to see the other doctor.

"This medicine man considered the matter and then said that he could cure her. He told them it was good they came while the trouble was yet in the early stages, for it would be incurable later on. If they wanted the cure done, he told them there were two choices. Either they would have to sacrifice someone else in the family, or else provide eight horses to be killed, for he could not stop the disease; he could only shift it to something else. He said he would prefer horses because he would rather not take the life of a human being. They agreed it should be horses. They went away and the medicine man worked up his power and performed his ritual. Before long the band broke camp and moved. This happened before the husband had returned from the war path. While they were driving the eight horses along, one of them suddenly dropped dead. They left him lying, and before long another one collapsed. Before they got to the next camp-site every one of the eight horses had fallen, one after the other.

"Then the mother and daughter rejoiced, for the doctor told them that if the horses did not die, it was a sign that he could not cure her of the curse which was upon her. Payment, he had said, could be in anything except horses. When the husband returned from the raid they told him how they had broken camp and lost eight horses on the trip, though no one knew how it had happened. That was all the deluded husband ever knew."

Indeed, as Professor Malinowski has so cogently shown for the Trobriand Islanders, "a supernatural sanction need not guard a rule of conduct with automatic effect."[10]

On the other hand, there were other ways in which resourceful husbands 627x
who had the proper medicine could lay a sorcery trap to catch an erring wife.
How frequently this was done we do not know. From all accounts it was not 754
very necessary, for all Comanches will gravely assure you that medicine 684
men did not have much trouble with their wives. The women were afraid of the powers of such especially endowed spouses and decorously controlled their behavior accordingly. Even so, a case not without its humor was re-
corded, and is told with great relish by the Indians. 627x
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Case 31. Adultery 684
Informant: That's It 522

"There was a medicine man who had three wives, sisters to one another. He was suspicious of the actions of his favorite wife, who was the eldest. This man wanted to go to the Smoke Lodge for the evening, but would not trust that wife, so he put an arrow with medicine powers under the bed, and left.

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[10] B. Malinowski, *Crime and Custom*, p. 81.

x627 754 684 "When he came home after the smoking was done, he found two people in the bed. One was his wife, and the other a young brave. The brave asked the pardon of the medicine man. What could he do? He was in the uncomfortable circumstances of being unable to separate from his paramour. He wildly offered the husband anything that might be required for his release.

522 "The husband turned on his heel and went outside. He got a switch. With this in his hand he entered the tipi again and gave the lovers a thorough dusting. After a while he wanted to go to bed. But the pair was still lying there, unable to get loose. So, calling on another of his wives, the medicine man ordered her to help him drag the luckless lovers outside the tipi. He pulling on the man, the wife upon the woman, they dumped the couple on the ground and left them.

"When morning came the parents of the young brave were about to move camp and became concerned with their boy's absence. Scouring through the camp to find him, they came upon their youth—attached still to the woman just as the irate husband had left them. Seeing this, the boy's father went to the medicine man and begged him to set the youth free.

"The husband refused. He said he loved his wife and he wanted her to get enough of it.

"Finding his own entreaties of no avail, the father went to some warriors of great influence and begged them to intercede. They went to the medicine man and offered him anything he might want to withdraw the charm. After this representation the medicine man consented; he went into the tipi and pulled the arrow out from under the bed. With this the pair got loose from each other.

"The father of the youth paid heavy damages to the medicine man, and that settled that part of the case.

[558] "Then the father of the guilty wife came to plead for his daughter, that she wouldn't get cut up or killed by her husband. He offered his son-in-law gifts and begged him not to hurt his child. He suggested that since she was guilty, it would be well to make her the slave of the other two wives, but he would not like to see her injured. The medicine man refused the gift from his father-in-law, but agreed to keep the woman, though she could no longer be his favorite wife. Thereafter she had to be a slave in his household to her younger sisters."

606 581 562 Here is a father begging his son-in-law not to harm his daughter. Propitiatory gifts are offered! As was noted in the discussion of murder, the title to a woman passed completely to the husband on marriage. That he refused the gift and yet observed the father's wish seems merely to indicate the nobility of the husband in the case.

ORDEAL

x627 Conditional curse is closely akin to ordeal. In view of the wide spread of ordeal in the Old World and its peculiar usefulness in law, its general neglect by the American Indians is unique. Yet neglect need not mean absence. The Comanches knew the conditional curse for adultery and 627x sorcery cases, and also had ordeal. They made no legal use of the latter; the former was not extended into general legal practice. This is more notable than the *absence* of either procedure. Nothing could more interestingly evidence the inertia in the way of diffusion or further adaptation of institutions *within* a single culture.

Papítsɔin may be best called a joking ordeal. In the presence of others a joker (who could be anybody so long as his relationship to the butt of the [602] joke did not demand avoidance) addressed another person of either sex. In an off-hand manner the remark would be dropped, "Well, and so I hear you have been having intercourse with So-and-so."

The usual reaction was indignant denial. If so, the joker picked up a bit 627x of dirt between the fore-fingers and sprinkled it on the hair of his victim. 789 This done, were the victim guilty of the sex conduct charged, the loss of all hair was supposed to result, and the victim would appear ridiculous in the eyes of all people. Or even more terrifying, if the jokester placed the dirt upon the tongue of the victim, guilt would be proved in loss of speech.

This is a practice which lives today and causes much mirth for the onlookers and terror for the party accused. In the summer of 1933 Skinny [522] And Wrinkled told with great gusto how he had seen a woman running down the main streets of Lawton, Oklahoma, speeding as though pursued by the Holy Terror, which was in fact no more than a laughing young Indian with a pinch of dust between his fingers.

Non-submission to the test proves guilt even as does submission and the occurrence of the unfortunate consequences. This is ordeal in all its aspects of a supernatural test save the solemn setting and the presence of a dispute of interest-importance to the disputants. One would expect that in the event the victim of the joke were a married woman, and found guilty, her husband would perforce institute proceedings against the adulterer. Nevertheless, the assurance of informants is that it was never used seriously, a statement which is substantiated by the complete absence of any ordeal practices in the case histories of disputes which were collected.[11]

OATH

In the Buffalo Tongue Ceremony,[12] a very definite immunity from legal 627x consequences for an unfaithful wife was observed. After a big hunt the 684

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[11] The joking ordeal was unknown to the Shoshone. Its counterpart was found among [171] the Cheyennes. This indicates a late acquisition for the Comanches.

[12] This ceremony is lifted from the sun-dance complex of other tribes. Its rarity among the Comanches is attested by the fact that no mention of its practice was made by informants used by the laboratory group. Dr. Mirsky recorded it independently.

×627 tongues were collected and roasted by the women. When they were cooked 684 and taken from the fire to be cleaned, men and women lined up and started dancing. When they stopped, all was ready. Then a war leader called for a virtuous woman to come forth to cut the tongue—not a virgin, but a wife who had never betrayed her husband. The leader warned the husbands that if their wives stepped forward and were disqualified they must not get angry or punish them.

The men were in one group; the women in another. There was silence and embarrassment when the call to come forward was given. At last one bolder than the rest stepped out. From the group of men could come an anonymous voice. "Go back!" It would be the command of a secret lover. The woman obeyed, for the leader had announced that if any unfaithful wife was permitted to cut the tongue, she would die. One woman after another would make the try and be sent back by her lovers, until finally one came forth who stood the test. To her the knife was given; she cut the 726 tongue amidst the "*li-li-li-li*" (cry of applause) of the other women. One informant said that this ceremony was used to bring success to a large war party before it set out. If a virtuous woman did the cutting, success was theirs. If an unfaithful wife were to do it, they would meet disaster. As she interpreted it, lovers revealed their secrets because it was their duty to safeguard their fellow-warriors' lives. Because it was a religious ceremony under the patronage of the supernatural, women were safe from their husbands when their lovers told on them. No one ever heard of a husband molesting his wife for being found out in this test.

×627 To complete the record of the supernatural relations to evidence and law an account of oaths as used by the Comanches in certain non-litigational situations is needed.

Among the Comanches unwitnessed deeds had to be verified by a simple ritual *ex parte* statement (akin to affidavit) before they were first recounted publicly. When a lone scout returned from his reconnaissance, he rode into the camp and scattered a pile of buffalo chips which the waiting warriors had placed before them. This guaranteed the truth of his statements. If the scout had killed a man, he rode directly to the pile and ran his spear through a chip for each man killed. With each chip speared, he cried, "*ahɛ*" ("I have claimed it.")

A Comanche adventure with the Utes shows the efficacy of the buffalo chip ritual (accompanied, here too, by tangible evidence), for even in the face of some skepticism, the story had to be accepted on the basis of the manure test (and the horse and woman taken). The Victory Dance was even given to celebrate the feat.

Case 32. Coup Substantiated by Oath
Informant: That's It

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"A Comanche band out looking for trouble were closing in on their objective. They had a scout out in front. He climbed a hill and looked about, but didn't see anything. Pretty soon he got sleepy and dismounted. He left his arms on his horse and dozed off. 726

"Some Utes came along then and made camp just below him. Some of the men came up the hill and saw him there, but they thought he was a Ute. He had some kind of a blanket over his hand, so they couldn't see him. They took their places near him and sat down to smoke.

"Finally the scout woke up and heard some talking. He peeked out and saw they were Utes. Then he tried to figure out what to do. Just then the young people down below started a deer. The braves on the hill got to their horses and rode after, leaving only some old men behind. Then the Comanche saw what to do. He got up and limped toward the Ute camp. The old men saw him and laughed. Near the camp the scout saw a horse with a deer hoof necklace. He got on and followed the people who were chasing the deer the way he wanted to go. Cutting across, as though to head the deer off, he caught up to a woman who was ahead of the others and nearest the deer. Seizing her bridle-vein, he led her off and took her back to the Comanche camp.

"When a man has such luck they have a special ceremony. The people stand in a circle with a pile of buffalo chips in the middle. The man rides across it and scatters the pile. Then he must tell all from the beginning. The leader of the raid said he was satisfied. They had a captive with no losses, so would turn back. When they got back to the main camp, some of the warriors didn't believe it. But they didn't have any other test. The people gave the Victory Dance."

The Comanches do not seem to have had any oath ritual for settling disputed coup claims as did the Cheyenne and other Plains Indians, even though the Comanche conditional curse resembled the Crow oath in form. No instances of such disputes could be remembered. 627^

Before summary, it may be recalled that the separatism of Comanche law results, as has been pointed out, in several divergent lines of action according to the nature of the offense. In the bargaining procedure there is neither ritual nor any other appeal to supra-social forces. The procedure was a purely legal action of negotiation and settlement.

In summary, ritualistic procedure was used in the procuring of evidence in adultery and sorcery. Procedure based on ritual was of three kinds: (a) conditional curse, (b) divination, (c) oath. Ordeal did not lead to legal procedure. Sunkilling was used to detect and punish adultery, the detection showing in the punishment. In adultery disputes it could be used only on a woman, but has been lately turned back on men who have evoked the sunkilling. The joking ordeal also was used to detect adultery, or any sex inter-

× 627 course, and though a true ordeal, was nevertheless not used as a legal instrument. In an earlier chapter it was shown how divination was used to detect sorcerers and how the conditional curse sometimes entered the legal process.

The Comanche form of oath was the striking of buffalo chips as a verification of the telling of the truth when recounting *unwitnessed* but not unattested coup. This oath was not used in the processes of legal settlement.

Non-ritualistic methods of obtaining evidence were also used in cases of suspected adultery. These techniques were akin to the third degree and were applied by the husband.

Of all the classes of wrongs which in Comanche society gave rise to civil disputes, only in the treatment of sorcery was a means provided for applying tests of evidence to a male offender. This, however, is not the great deficiency it seems, for as has been pointed out, of the remaining cases, the vast majority revolve about marital problems. In such disputes, evidence could be forced from the woman by the methods described above. It must, nevertheless, be admitted that evidence was only very rudely treated by the Comanche.

ABNORMAL CONDUCT

On a less-than-legal level there are forms of social conduct which are 626 definitely in violation of social norms and yet not viewed in the eyes of a people as behavior that calls for explicit sanctions. Such acts, though disapproved, society is willing to leave to the implicit sanctions of public opinion and the desire of the individual to stand well. The off-the-norm behavior described in this section is of this order.

ILLEGITIMACY

Comanche attitudes towards illegitimacy show no vindictiveness, though 848 the feeling prevailed that every child should have a recognized father. Illegitimacy was declared by all informants to have been rare. Premarital [836] sex relations were common enough, and abortion was not unusual, but in [847] case of childbirth it is asserted that the father married the mother willingly. If the father did not come forth voluntarily and his identity was known, the parents of the girl are said to have gone to him with friendly talk to persuade him to marry the daughter. In cases of doubt (multiple possibilities), informants say paternity was determined on the basis of physical resemblance between child and supposed father: or if the child was old enough, it was determined by whom the child chose as its father. It is stated that if the father was not known, the girl was not usually married to another for a long time after the birth of her child, for the father could come and claim his child at any time. The problem-set was not to punish the mother, but to properly provide for the child.

That's It gave a history which is typical of the Comanche attitudes.

Case 33. Illegitimacy
Informant: That's It

"An unmarried woman had a child. She said she would never be able to take care of that child, so she thought she would get rid of it. Accordingly, she took it to a grove and there washed it up and laid it on a bed of sage leaves. Pretty soon a young man came out to tend horses. He found the little baby lying there. He looked at it and picked it up and wrapped it in his blanket. He turned back home with it. Just as he stepped through the door of his tipi the baby cried. The brave's mother, who was there, looked up, 'Did I hear a baby?'

" 'Yes,' said the youth, 'here's my son.'

" 'What a burden!' the mother cried.

"But her son insisted on keeping it, so they took the child to a wet nurse. They gave her presents in payment for feeding the baby. Later on they bought corn meal from the Mexicans to feed it. When the boy was three years old, his father told his mother and father that he wanted to go on the war-path. He was gone for a year.

848 On the day he came back the little boy's mother wanted to come over to the warrior's tipi. She hesitated three times and couldn't get herself to go. But she came over at breakfast the next morning and called at the tipi. They invited her into the tipi and told her to sit down next to the boy. The girl told the grandmother that she had come to do dishes and clean up everything. She went over and sat down next to the grandmother.

"The people wondered: they asked her how it happened she was visiting them when she had no connection to them. Then she told her story. When she finished she begged to be allowed to stay in any capacity.

"The old man, the grandfather, said, 'Yes, it is good. It is up to the old woman, my wife.'

"The old woman, the grandmother, said, 'Yes, it is all right; it is up to the old man and my son.'

"Then the brave said, 'She will take care of him. It is good. She may stay here with us.'

"The child was named Covered With Sage; that is how they found him."

INCEST

835 626 Incest was forbidden. The tabu applied to parent-child (real and classificatory), brother-sister (real and classificatory) and uncle-niece, aunt-nephew relationships. There was no rationalization of the tabu. It was just there. As Bluefoot observes today, "They did not know about the harm in it. They just didn't want the people to make fun of them for marrying a relative."

"Making fun of them" and ostracism were the only controls used by the Comanches to reprove incest.

One whole band is damned in name because of their reputed incestuousness. Lots of Maggots on The Penis was this band's regular appellation. An alternative sobriquet was Something Together. It is declared that this band is now extinct because of its incestuousness. (This might vaguely imply a supernatural sanction, but more likely this is a reflection of attitudes derived from the whites.) Comanche attitudes towards incest are revealed in the following case.

835 588 *Case 34. Incest*
Informant: Talker (Recorded by Jeannette Mirsky)

"There was a family, father, mother, brother and sister. The children grew up. When the daughter was about twenty-five and very pretty, the family seemed to get separated from the rest of the band. They camped by themselves. It made the mother wonder why they had gotten away from the others. 'It is dangerous to live off by oneself; in case of attack there is no one to help us,' she complained.

"But the son said, 'Be quiet. It is not dangerous.'

1: Hoebel E-5 (1933) 1940 NO6 Comanche NO6

"One day the son left them to visit the main camp. On his return he brought with him a wife—a wife to do the cooking and work for them. His sister wanted to leave them to go live in the main camp where she could go to dances and have friends and meet the young men. But her brother forbade it. This brother was in love with her all the time even though he was married. In time, even though he had a wife, he had a child by his sister. 835 588

"Before it came, his sister had missed four periods, so her mother became suspicious. She waited until she was alone with her daughter to question her. The latter revealed to her, 'It is none other than your son. He came at night to the tipi and lifted it up. I thought it was someone else, until it was too late.' Then the family isolated itself even more and the sister had a baby boy born out on the prairie.

"When this happened the father said to his wife, 'What does this mean? What is it all about?'

"And the mother said, 'Come with me. Let us get wood.' When they were in the woods alone, she said to him, 'I did not want to get wood, I wanted to talk to you alone. Our son has begotten a child by our daughter!'

"Light dawned on the father. 'Now I understand,' he said. 'Now I can see why he has kept us away from the rest of the camp. When other men of my age could meet of an evening and smoke, I could not go. We had to be isolated so he could indulge in that insane thing.' It crushed him and he became ill.

"The son went everywhere looking for a medicine man to doctor his father. But the father merely said, 'There is no need for you to go looking. No doctor can cure me. You have killed me.'

"After he had died the mother said to her son, 'Now, my son, you have brought all this on us. You have committed unheard-of things. I, who have lived long, have never heard its equal. You have caused your father's death. Now you must take your own sister to yourself as wife. I am going back to my people.' She did not go back to her own family, but lived among friends in the main camp. When people asked her why she had come back alone, she only told them that her husband had died and that she had come back to her people. She was still mourning him, and so his relatives came to join her in her grievous wails.

"Three years passed. The brother and sister and his first wife came back to the main camp. The sister was the favorite wife and the other was the chore wife. His father's folks heard they had come back to the camp, so they went to call on them right away. They came to wail with them for the father's death which had occurred three years before. The child was now three years old. 'Whose child is that?' asked one of the aunts. 'Is it yours?' she questioned the chore wife.

" 'No, it is hers,' pointing to the sister.

" 'Is he—her brother—married to her?'

" 'Yes, he has taken her to wife.'

" 'This is unheard of,' the aunt cried. 'It is insane. Since he has taken his sister as wife, I suppose he will take me too. I am not coming to see you any more. You are living so disgracefully, I cannot come any more.' During this whole time the brother and sister said never a word.

835 "They stayed right on in camp. The brother and sister and chore wife lived together and the child grew up. 588 Some people called on them, but even though they lived in the main camp, they were isolated. People like myself, who knew what was right, thought the brother was crazy. Some men would smoke with him and try to tell him evil would come of it.

"Yet they lived through it all without mishaps and died a ripe, old age."

626 Here society was completely disarmed by a thick-skinned individual. 835 The barbs of public and familial disapproval did not penetrate. There were 588 no legal shafts to hurl—the deed was neither tort nor crime—he matched his indifference against society's impotence—and won.

There were other cases. Red Youth married his sister's daughter. Though he was much older than she, they were married and lived together for years. People called it aɹakwɜ′ɜtɜn, niece-uncle marriage, in a sneering way. In another marriage of this sort, Pointing To The Rising Sun married his sister's beautiful daughter, Wide Feet. His sister, Takes Two Scalps refused to call him "son-in-law." She always called him "elder brother": it was as though he were not married to her daughter. People always made it a point, however, to refer to him as her son-in-law. *They* were not going to let it pass.

In all these cases the male was the incestuous aggressor. Such men were referred to as crazy (pɔ′sa). They did not care for the delicacies of convention.

835 There is a mythological tragedy, however, in which the sister was the aggressor. The boy reacted heroically. He is held up as the ideal to Comanche children: his sister is given them as the example of what comes of shamelessness.

This boy was old enough to have his separate tipi. His sister slept in the big tipi with the parents just as was usually done. One night a girl slipped into the tipi of the youth and lay with him. He did not know who it was in the dark. He was curious, so he marked her dress down the back with paint while they were together.

The next day he went over to where the women were playing shinny to look for his mark. His sister had the mark on her dress! The boy was ashamed; but he did not say anything. He just went away and cut a short double-pointed dogwood spear and took it with him to bed that night. Again his sister came and lay with him as before. Just as they pressed themselves together, he shoved the spear between their breasts. It pierced them both. In the morning the parents came to see why the boy did not come out. They found them dead. The mother was so angry with the shameless daughter that she cut and slashed the body of the girl all to pieces.

RAPE

Rape was an act beyond the pale of normal conduct. It, too, was of infrequent occurrence and not part of the general pattern. Sex relations were so free that there seems to have been little cause for rape. 839

Case 35. Rape: Blow it Away
Informant: Holding Her Sunshade

"Blow It Away was a chronic offender. He was not favored by the women and was generally avoided by them. He made up for this by attempting surreptitious night unions with women in their tipis. He would sneak in and try to arouse them to desire. He never had much success. Then, too, he would attempt to rape such women as he found alone away from the camp. These attacks he would make in the daytime and in these he was usually successful. No one ever caught him attacking a married woman, so he was never called to account by a husband. But one night he tried his night-stealing on a large married woman and she broke him. 684

"The woman awoke to find Blow It Away feeling her. She struggled with him; then she got him down. Holding him to the ground, she ripped his breech clout from his loins and grabbed his penis. She was starting to drag him from the tipi when her son awoke and saw them. Her boy begged her not to do that to the man, but the mother was going to teach that nuisance a lesson. Holding him as she had him, she dragged Blow It Away through the door out into the open spaces between the tipis where all the people could see him.

"This was the first time anyone took action against him. It was the last time he tried to force himself on a woman."

This is shaming par excellence, plus a very painful conditioning.

Sleep-crawling by either boy or girl was legitimate if the recipient did not object to quiet night visits. Thus, it was out of the category of abnormal conduct. 836

THEFT

Theft was so unusual that no provision was made for it in the legal scheme. Consequently it must fall into the vague class of unapproved abnormal acts which were outside the scope of law. One informant after another avowed that it never happened within the tribe. No clear cut cases of theft under aboriginal conditions were recorded. 685

GRAVE ROBBERY

In recent years the Comanches have been considerably annoyed by ghouls. The ancient custom of burying a person's individual belongings with him and of throwing articles of value into the grave with the body persists today. Predatory whites have been given to exhuming bodies to strip them of whatever valuables might be found. The grave of the son of a certain rich

685 Indian is said to have been opened at least a half dozen times. Attention is naturally directed to the possibility of grave robbery among the Indians before the depredations of the white man. Here again inquiry was met with denial, until one instance was finally related by Slope.

Case 36. Grave Robbery
Informant: Slope

"A wealthy man was in a cave. His body was dressed in his best clothes; and when he had been laid in the cave, the opening was closed up with rocks. The mourners went away down the hill toward the camp.

"As soon as they were out of sight, a tákapa (poor man), who had hidden nearby, came out and removed the upper rocks from the opening. Putting his hand in, he felt of the man's beaver-wrapped hair, and his silver ear-rings. The fresh air brought the dead man to life and he caught the hands of the marauder. So frightened was the youth that he uttered a piercing cry and struggled to get away. But the man spoke to him and begged him to get some water for him to drink. He asked the poor boy to run and tell the departing relatives that he was alive, and said he would give the youth anything he wanted.

"The boy set off at a run to tell the mourners what he had seen. When he caught up with them, he confessed his attempt to rob the grave and what had happened to him. They immediately turned about and went back to the cave. There they found their relative revived as the boy had said. They took away the rest of the rocks and gave him a drink of water. In gratitude to the poor boy, they forgave him for his act and gave him the good clothes which the man had been buried in and four horses."

It is evident enough that the robbing of graves was not in the category of usual forms of misconduct. Apparently no particular pattern of attitudes was worked out as to how to treat such violators; there was no need. The one case cited could easily have been otherwise handled if it had not resulted in the saving of the life of the "dead" man. One suspects that it may be more legendary than factual.

SUICIDE

Suicide because of an overwhelming sense of shame was a definite
762 Comanche pattern.

"When I was about fourteen years old I saw a woman who was either sick or pregnant hang herself," said Post Oak Jim. "She was ashamed of having a child when she was so old. She would stay away from camp all day. Finally she hung herself." And again, "Once there was a man who was whipping a horse in the face. The horse dodged, and he struck himself across the face with his quirt. He'd never been whipped. He got to thinking 762 about it, so he got out his gun and shot himself. The people didn't know why he did it, and suggested things out of the way. Sometimes when Indians go on a raid they catch a disease and commit suicide because they don't want to go back that way. This man was a brave warrior; he had killed lots of enemies; he had power."

Among the Comanches a sense of the injustice of a formally justifiable 681 act at times took the form of a protest-suicide. Or perhaps it might be 762 released in some retaliatory act, such as killing a favorite horse or mutilating the good-looking sister of the man who had pushed the law too far. A boyhood prank of Gets To Be A Middle-Aged Man produced these double repercussions of incensed reactions to an over-strict legal settlement.

Case 37. Adultery and Retaliations
Informant: Gets To Be A Middle-Aged Man

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"I was down by the creek one day with a friend when a woman came down for water. She was the sister of my friend's step-mother. I proposed that we seek intercourse with her. My friend agreed. So I went over to make the proposition to the woman. She was quite willing, provided that we would wait until she had taken the bucket of water back to camp. On her return I met her first, as I had demanded the first chance. While we were together there, her sister (my friend's step-mother) saw us, but she slipped quietly into the brush and said nothing. When my friend had his turn, his step-mother again spied and saw them together. She went right away to her sister's husband and informed him of his wife's doings with us.

"The man came to my father's tipi. He told him what had happened. 'What do you intend to do about it?' he asked my father.

"We were called in and he blamed us both with adultery. I denied any contact with the wife, but when my friend was charged he boasted, 'Sure I did it. It's an honor to be able to do such a thing as that.' The husband demanded damages, and when he received two good horses from my father, he departed satisfied.

"Then my elder brother came home from a raid and heard that two horses had been given because of our activity. He was angry. He took his bow and arrow and shot two horses dead in the herd of the woman's husband.

"Nothing further happened at that time. But then the younger brother of the husband came back from a raid and heard the story. He was angry that the two horses had been shot. Thinking that his older brother had been ill-treated all around, he went over and cut off the nose of my friend's beautiful sister.'

The whole difficulty generated from the fact that the wrong-doers were youths. Adultery does give cause for suit for damages, but boys were always in a favored position and indulgence should have been shown them.

684 Gets To Be A Middle-Aged Man denied his guilt and nothing happened.
882 The other boy boasted, aggravating the situation. The elder brother, how-
689 ever, would not be imposed upon. To him it was lack of good taste and fairness for the old man to take two horses; hence his summary retaliation. The collaterals to the other party reacted in turn to this action as indecently harsh. They retaliated with mutilation of the sister. This last retaliation should not be confused with the principle of group liability (i.e., that the sister paid because she shared the responsibility). It was rather that the sister belonged to the brother and, as a good-looking girl, had value to him. Spoiling her visage was like mutilating his horse (possibly more so).

689 So too in the murder case (pp. 66–67 above) in which a war leader was slain for killing the two fat horses which had been offered him in compensation for one fat horse of his which had been eaten without his permission. The horses were his by acknowledged agreement. But that the chief should so scornfully kill them was too much for the other party. It was an insult to a man who had sought to do right. Though the killing was undertaken by one man and his captive, yet the entire group acquiesced, making no effort to dissuade him. Their inaction showed at least passive approval.

It appears that one should not press his bald legal rights too far. Too much pressure under the wrong circumstances generated the same type of back-fire which in recent decades has troubled modern Continental lawyers with the concept of "abuse of rights."

689 The sharpest back-fire in such situations was in protest-suicide. Witness
the action of a disowned mother, who was rightfully denied by the son she
762 had deserted.

Case 38. Suicide
Informant: That's It

"This woman was widowed with her four-year-old son. The band was moving camp and she had her boy tied in his little saddle on a pony. They were straggling along so much that they dropped behind the other people. A young man dropped back and proposed to the mother that they run off and marry. She agreed to that. But they did not want to be bothered with the child, so they tied his horse to a tree in the midst of a grove and left him there to starve.

"Later on some hunters, who were out after a bob-cat, came to the grove. One hunter said to the others, 'There's a horse standing over there.' The group went into the grove and saw the boy sleeping. They watched him. Some said they should wake him up. They woke him up and asked about his mother. He didn't know, but he told them the direction she had gone. The hunters followed the trail and came up to the main band. The mother was not there, so the boy was taken by his grandfather and raised to manhood, and got married.

"One night his mother came back to the band. She went right into her son's tipi 689
and shook his arm. She told him to get up and get some bison before they moved 762
camp, because the people were going to a place where buffalo were scarce.

"The young man woke up and looked at her. He said, 'Did you call me "son"?' 'No,' he replied to her avowal, 'I have no mother. You tell me you're my mother. You don't know what you are talking about. Go away!'

"His mother uttered a groan and went back to her own tipi. Then she went out. She went down by the creek to a tree and threw a raw-hide rope over a branch. She stood on a log and put the rope about her neck. After that she kicked the log out into the stream and hung herself.

"The body was discovered by some hunters. All the people ran down there to cut her down and they buried her not far from the creek. The brother of the dead woman was angry. He said he would kill his nephew's wife. He said she must have had something to do with it; otherwise it would not have happened. But the young man and his wife ran away. They stayed with some other people until the trouble was forgotten."

Here again the son was legally right, for his mother had given up proper claim to him. For that in itself the son was not blamed. And yet to cause her such anguish that she committed suicide was going too far. In the uncle's
thinking the son would not have done that of his own volition; his hussy of [157]
a wife must have urged him to it! The forgetting of the trouble, by lapse of [152]
time, shows the role of momentary passion, such as grief, or outraged dignity, in a hot-tempered people.

Nor should we fail to include the seeking of death in flaming glory on the battlefield, sought with reckless abandon by men whose honor was stained or whose failing constitutions held out the prospect of death on the sick-bed. These, too, were suicide: but suicide turned to public benefit.

Case 39. Suicide
Informant: Talker (Recorded by Jeannette Mirsky)

"Among the Yεp-Eaters were two brothers: they were Thunder and Rocky Creek. They grew up together and never quarrelled. When they were yet young men their last remaining relatives died, leaving them alone. They were single men.

"Then came the time when Rocky Creek eloped with Eat Something; he took her on the war-path, for she was married to an old man. His brother was with him in this venture. But then they returned, Rocky Creek let her go; because she was a mean woman he did not want her.

"These brothers had a sister, Breaks Wind While Sitting, who was married. When they returned from the war-path they went to visit her.[1] Their brother-in-law,

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[1] The rules of avoidance lapse when brother and sister have been married.

684 762 who had been out hunting, returned with meat at the same time they arrived in camp. The next morning at breakfast both Rocky Creek and Thunder asked their sister to add some more fat to their meat. 'I did not endanger my life on the hunt in order that you should enjoy the best of it all,' their brother-in-law muttered. When he said this mean thing, Thunder pushed his meat aside.

" 'Sister,' he requested, 'take this food away.' She obeyed him. The brothers washed their hands; Thunder motioned to the door, 'Come,' he said to Rocky Creek, 'let us go outside.'

"They left the camp to go up into the mountains; there they stayed all day even though it was winter. Towards evening another young man came along. He hailed them. 'What is the meaning of this? Why are you here? I know you have been here since early morning.'

"Thunder answered him, 'We are just thinking things over.'

" 'What things?' the stranger asked.

" 'I have no father or mother,' Thunder replied. 'There is only one thing left for me. Tomorrow I start out to seek death.'

" 'Where then?'

" 'In the white man's territory. I shall probably not return from there either.'

"The stranger said he would join them.

"As they started slowly on their way, they were met by several others in the same plight—young men without a place to go—tákapana. They travelled for days and days. Then they were being trailed by some soldiers who were led by an Indian scout. The young men stopped and killed some cattle for meat which they carried into a ravine to cook. Just as they sat ready to eat, one saw a cloud of dust. 'It is a whirlwind, I think,' he remarked to the others.

" 'No,' said another. 'It is the soldiers on our trail.'

"Thunder spoke up then. 'Listen to me, brothers,' he commanded. 'Those of you who care to can still escape. Go now! I stay here. Here by this fire, for I have come seeking this very thing.'

"They waited. The soldiers were upon them. Here and there a man was picked off as the firing began. Rocky Creek approached his brother. 'I am shot,' he said. 'A bullet has wounded me.'

" 'You can still escape. There is a way out down the creek. Go! But I am staying.'

" 'Brother, come with me,' Rocky Creek pleaded.

"Thunder only answered, 'I am not leaving our fire.' The guns rattled on.

"By noon all the tákapana save one were dead. The firing ceased. Of all the young men this one alone lived to tell the story of what had happened to this homeless group.

"The brother-in-law who had begrudged food to his wife's brothers was an exception. When he acted so, it wounded their prides so that they went out to seek death. Many young men in the same circumstances courted death at enemy hands."

[558] So, too, did lovers who had lost face when a braver husband forced them to give up a stolen woman. Cases will be remembered from previous sections.

Here, as in the Trobriands, we find suicide "a means of preventing people from extreme and unusual types of behavior."[2] 762

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[2] Bronislaw Malinowski, *Crime and Custom*, p. 98.

Professor Malinowski emphasizes another aspect of the situation which Professor Karl Llewellyn feels is not justified by the Melanesian data thus far at hand. The whole of the quotation cited above reads, "Thus suicide, like sorcery, is a means of keeping the natives to a strict observance of the law, or means of preventing people from extreme and unusual types of behavior." Llewellyn observes that the Trobriand data show not that suicide is a method of enforcing the *law*, but more likely that it is a method of protest *against* a too strict insistence upon the letter of the law—even as in Comanche society. But Malinowski's point holds for many cultures. Compare "fasting on a man" in ancient Ireland, revived in the modern hunger-strike. Devotion-suicide (as of the widow in ancient India) may merge into one institution with shame-suicide (as in old Japan), and in both phases run free either of protest or of effort at enforcement of rights or vengeance for wrongs. In our own civilization threatened suicide is sometimes met as pressure in love-matters; but the claims sought to be enforced are rarely "legal," even in the sense of primitive law. On the contrary, the pressure may be in every sense an illegal aggression. The act itself is almost without cultural meaning; only its context gives it color. 121

PROPERTY, INHERITANCE AND CONTRACT

421 Among settled peoples with fixed property and diversified economics the institutions of land tenure, disposition and inheritance, the treatment of chattels and the obligations of contract make up the better half of the material about which law centers. Or, as Professor Radcliffe-Brown writes, "With us one of the most important aspects of succession is the transmission of property by inheritance." But the study of Comanche practice offers little of note on this phase of the subject. For as Radcliffe-Brown continues, "Yet in some of the simplest societies this is a matter of almost no significance at all. In an Australian tribe, for example, a man possesses a few weapons, tools, utensils, and personal ornaments, things of little value or permanence. On his death some of them may be destroyed, others may be distributed among his relatives and friends. But their disposal is of so little importance, unless in relation to ritual, that it is often difficult to find any rules of customary procedure."[1]

If this statement had been written for the Comanches, it could scarcely have been more apt.

LAND TENURE

423 The Comanches had no concept of land value. As herding hunters, land was a matter of unconcern for them, being held neither individually, jointly nor communally. One may merely speak of land as having been communally occupied. The possibility of dividing hunting grounds or seed patches by families as was done among the northeastern Algonkians[2] was not considered, for as Schoolcraft wrote of the Comanches, "No dispute ever arises between the tribes (bands) with regard to their hunting grounds, the whole being held in common."[3] Within the tribe, therefore, land tenure was infer-
[648] tile soil for legal conflict. Trespass by persons of enemy tribes meant death, unless it was a woman whom they cared to take as a captive, or unless the warrior escaped by display of cunning or bravery. "Friendlies" could visit with impunity and partake of Comanche game without danger.

CHATTELS

422 Wealth for the Comanche centered largely in horses. The economics of horse ownership has been discussed above (pp. 14–15).

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[1] A. R. Radcliffe-Brown, *Patrilineal and Matrilineal Succession* (Iowa Law Review, Vol. XX), pp. 286 ff.

[2] F. G. Speck, *Family Hunting Territories* (Canadian Geological Survey, Memoir 70, 1915).

[3] Schoolcraft, *History of the Indian Tribes, etc.*, Vol. 2, p. 131.

In addition to horses, woman must be placed largely in the category of 422
property, for her legal disabilities and low status made her very much a 562
chattel, first to her father and brother, later to her husband. The several facets of this problem have been repeatedly examined in preceding sections.

In addition, domesticated dogs must be included in the category of pri- 422
vate property. They abounded, but were of little economic value or im- 231
portance save as camp scavengers and to warn of prowling enemies. (Except the notorious Comanche canine, Mákutavai, whose name was on the agency roles for many years as that of an Indian. His owner drew double rations from the government on this ruse.) The number of dogs arose from the existence of a tabu against killing them. Because of their identification with Coyote, dogs are believed to possess some power. To kill one brings bad luck expecially to one's children. People without children trained some dogs as pets, babying them and nursing them like a child. When the band was moving camp, these people would put such dogs on a horse to ride.

The idea of liability for acts of animals did not exist. There was no re- 672
compense for a dog bite. Nor could damages be sought for injuries received 231
from a kicking horse. A quick-tempered man, however, might kill the horse on the spot. In such event, informants said there would be no call for damages to compensate for the horse. So it was with a dog, owned by another person, which was killed in anger. Post Oak Jim thought that "something might have been done about it" if the dog had been given to the owner by a dead friend, but not if the dog had been raised by the owner himself.

Finally, in regard to food, principles of generosity placed a sort of public 574
lien upon the game a Comanche hunter brought down. A man who returned 224
to camp with meat was obliged to share it with all who came for some. He had to give the best part to his wife to take to her father. Other portions he gave to those who asked. "If a man won't give it away, they camp on him until he does." This means obligation. But performance was not always spontaneous or achieved. In a hard winter She Invites Her Relatives observed that some people moved out of the camp so that they would not have to share their food with the others. Any persons who came upon a hunter and his game could claim any quarter by touching it. If there were enough claimants, the only part going to the slayer was the hide. The hunter asserted his right to this by seizing the tail. How similar this rings to Eskimo practice! The obligation seems here more than mere generosity; "They would camp on him." Generosity based on ethics appears rather in the buffalo hunt, a communal venture with a prospectively full supply, where the slain brutes were individually claimed. There young men were taught to kill a fat cow or two for the old men, who would even make

574 224 special request for a certain animal before the active hunters rode into the slaughter.

422 Objects of material culture were personally owned; but the test of ownership was not production so much as use. Clothing was prepared and made by the women, but owned by the person who wore it. A robe made by a woman for herself was hers, while a robe made for her son or husband belonged to that worthy. Tools and utensils used by the women belonged to the women and were also made by them. Every warrior carried his own kit of tools for the making of bows and arrows. This kit was an indispensable part of his personal equipment and was always carried fastened to his body, so that no matter what the emergency he was prepared to equip himself with weapons. Some older men specialized in arrow-making. They gave arrows to petitioners with or without consideration. Each man marked his own arrows with distinctive feathers or by some characteristic of production. Women made saddles for themselves and held them as their own [492] property. The man's saddle, which was of a slightly different style, was [438] owned by the men. Among the Comanches they were made by Mexican [721] captives who specialized in the trade for pay.

422 424 438 Medicine paraphernalia were made by the owner according to his vision directions. If the help of others was needed, they received no pay other than food. The medicine formula was privately owned, but could be transferred in consideration of payment, or given as gift, or inherited. The power itself, however, had to come through a dream as a confirmation of the efficacy of the transfer. War honors were another very distinct form of incorporeal property. These could be transferred as a gift of high esteem, as has been described. They were not, however, articles of trade in economic exchange.

422 586 The tipi, which was made, erected and moved by the woman, was not hers by proprietary right. The decision as to its disposal belonged to the husband, though if generous and well-disposed towards her, he frequently gave it to the wife on separation.

422 Throughout the simple catalogue of goods we find that articles of personal use were usually personally owned according to the principle of effective utilization.

INHERITANCE

428 768 In the disposal of a deceased's property there is but one rule which stood out with constancy: *upon the death of a person all effects of his (or her) personal usage were destroyed*. This included clothing, weapons, saddles, tools, paraphernalia, and horses customarily ridden by the deceased. According to Neighbors, "They also killed their favorite wives, but this custom has

been done away with from intercourse with the more civilized Indians. . . .”[4] 428 Further, even the tipi in which the dead person, man or woman, lived was 768 totally destroyed; also for a child, but not for a baby. Articles of intimate personal usage were buried with the corpse. Other less important articles were burned. Possessions with medicine powers were either destroyed by throwing them into the river, or by placing them in an unfrequented tree where they could rot.

Claimants for any surplus property were the relatives, close friends 428 of the deceased and fellow tribesmen who came to mourn—especially those who mourned with enthusiasm. Superficially there seems to be no consistency in the Comanche rules of disposal—as to whether goods went to wife, to children, to brothers, or were given to non-relatives. The key is in the recognition of a plurality of levels of legal and customary claims.

First, the surplus property by “law” (presumably law, but its reliability could not be tested to determine enforcement) went to the widow, upon whom the obligation to share with others was imposed. Thus Itoβits said that a wife would “probably” inherit the property, and if her mother-in-law still lived, she might divide with her. Where the marriage had been polygamous, Gets To Be A Middle-Aged Man stated, “Only those wives who had had children by the deceased husband may inherit from him; the first wife administers the distribution.” That’s It offered that a wife could not keep all the property for herself. “If she tried to, her husband’s friends would make trouble.”

The first outside claim could be that of the deceased husbands’ best friend. He was privileged to ask for the favorite horse: refusal reputedly never occurred. But this was not a cut-in on the widow’s property, because if the horse was not given to the intimate friend as a keep-sake, it was invariably slaughtered at the grave. In no event did it enure to the widow. By pre-death testament a man occasionally expressed the desire that his [763] horse be given to a specified friend, rather than be slaughtered.

Outsiders who had no personal claim to a share in the estate could establish 428 an obligatory claim in two ways. By providing a suit of clothes or add- 626 ing property of their own to the goods buried with the person, they imposed upon the survivors an obligation to share the estate. Visitors mourned and mourned until they were given sufficient gifts to stop them. This was an irresistible pressure from without.

Within the group of heirs, after the wife, surplus horses went to the 428 “father, mother, brothers, and all other relatives according to the degree of

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[4] Schoolcraft, *The Indian Tribes, etc.*, vol. 2, p. 133.

428 relationship." The maternal uncle had prior claim over the paternal.

However, the right to inherit must have meant very little when balanced against it were the exacting requirements of customary mourning. Ideally, the immediate family and even the brothers and sisters of a dead man gave away or destroyed property, their own as well as that from the estate. The [762] burial of a suicide-mother in the Yɛp Eaters band was in this pattern. The mother hanged herself because her son called her a bitch for not doing for him what his wife should have done. When the body was brought in by her 428 elder sister and father, they laid out a large buffalo rug over a thong. Then, 764 "on this they put all the pretty, fine things the *family* owned. They dressed the dead woman in all her finery, painted her face, combed and plaited her hair, painting the scalp red up the part. They covered her arms from wrist to elbow with silver bracelets. They put on her finest moccasins with silver dollar trimmings. She wore two beautiful belts with handsomely trimmed possible pouches, and so forth. The women dressed her body. (A man dressed a man's.) Her father sat at her head, calling on all her relatives and friends to take their last look. There was a big crowd gathered outside. 'We are going to throw her away. She is going to live in the ground,' he cried. After the people had seen her, they folded the blankets over her, folding in all the fine, pretty things; then they wound the thong about it.

"During this time the women wailed. They tore their dresses off, leaving only skin aprons to cover their mid-region. They hacked at their arms and legs and face. Some cut off an ear. The men cut their flesh, too. This was done by her immediate kin and close friends.

"They brought her horse then with its own saddle. Across it, they threw her body. They put their finest silver-mounted bridle on the horse. They all mounted their horses, and the sister led the funeral horse to a natural cave in the mountains. They put her in it with her saddle. Then they killed her mount.

"When they came back—there was her tipi where she had lived with her father. Back of it was her son's tipi. They put all their belongings inside and burned them. They had *nothing* left."[8]

When people so made themselves destitute, they were on the tribe. They were fed and cared for until they were ready to drop their mourning. Then the men of the family went afoot on a raid to get horses and start life anew.

428 In situations where the family did not spontaneously go as far as did this 626 last one, the public pressure of mourners *forced* them to further giving. 765

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[8] The quotations are from Talker, recorded by Jeannette Mirsky.

Neighbors observed that these helpers in grief "wailed a dead person until 428
they received sufficient gifts from the man's relatives to stop. For instance," 626
he continues, "if a man wants a favorite horse belonging to the brother of 765
the deceased, he continues crying until he obtains it." Not only the deceased's estate, but the whole family property was drawn upon. If the death occurred in battle, then the demands of wailing and the value of gifts received were enlarged with the result that "from the liberality with which they dispose of their effects on all such occasions of the kind, it would induce the belief that they acquire property merely for the purpose of giving it to others."[6]

This is the picture of Comanche disposal of an estate as it appears to be. 428
Actually, there were undoubtedly manifold deviations and variations to- 183
wards either extreme. The patterns of disposal were nebulous and not well fixed.[7]

Nothing could better reveal the difficulty of evaluating the material which confronts us than the prevailing notions as to what happened in the disposal of the herd of horses belonging to A Big Fall By Tripping. On three points all the stories agree: he had waxed so fat that no horse could
carry him, hence he was dragged from place to place on a good, strong [492]
travois; when he died he was too big to move to the mountains, so they dug [766]
a hole within his tipi and dumped him in; he left an estate of one thousand to fifteen hundred horses—all white. Concerning the settlement of the estate our four accounts diverge.

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[6] Neighbors, *ibid.*, pp. 133–134.

[7] Professor Ralph Linton has acutely described the confusion and conflict in Comanche 177
inheritance practices, laying emphasis upon the dynamics of cultural change. ". . . in 1870–1880 the practices of the Comanche with regard to inheritance were in a chaotic condition. There is good reason to believe that the whole problem of inheritance was new to the culture. The Plateau tribes from whom the Comanche had separated themselves when they entered the Plains were accustomed to destroy all a man's property at his death. This entailed few hardships and no serious economic loss, since property was limited to clothing and a few weapons and utensils. When the Comanche took over the Plains culture and acquired horses, inheritance became a real problem. Some individuals owned very large herds, in one case 2,000 animals. To slaughter the entire herd at the death of the owner was strongly against native sentiment and also prejudicial to the interests of the tribe. Since animals were freely loaned, several individuals might be dependent upon one man's herd for their mounts and would be seriously handicapped in hunting and war if these were killed. Stories indicate that there were some cases of wholesale killing during the early period, but by 1870 it had become customary to kill only a man's favorite horses and distribute the rest among the surviving relatives. No rules governing this distribution had been developed, with the result that there was usually hard feeling among the heirs." Linton, *The Study of Man*, pp. 297–298.

428 *Case 40a. Inheritance: Estate of A Big Fall By Tripping*
183 *Informant: Gets To Be A Middle-Aged Man*

"Before his death, A Big Fall By Tripping had made an announcement stating his desire that his best horses were to be slain with the arrows which he had in his three quivers. There were one hundred arrows in each. (Indeed, a wealthy man.) The remaining horses were to be divided up among the tribesmen. This order was executed by the tribe's best marksmen under the direction of a peace chief. Three hundred of the best were slain."

Case 40b. Inheritance: Estate of A Big Fall By Tripping
Informant: That's It

"A Big Fall By Tripping made no announcement whatever of testamentary desire. After his death the chief decided that the herd was too large for a woman to handle, so he set the warriors to slaying the horses. They worked at this until all the ammunition ran out. Still there were five hundred horses left. The chief thought it over then and decided that the woman could handle one hundred head without trouble. They picked out the gentler ones for her. Then the dead man's best friend took one hundred too. The chief asked the widow what she would like to have done with the rest, advising that it was good to give them to the husband's best friends. It was done in this way, with the mother and the grandfather of the most intimate friend of the old man coming in for a share too. The horse which had been used to carry the man's travois was buried in the grave with him."

Case 40c. Inheritance: Estate of A Big Fall By Tripping
Informant: She Invites Her Relatives

"The dead man's nephew rounded up the horses and started killing them. He was engaged in this when four disinterested men came to him and told him not to kill all of them. They told him to give the remaining horses to his own children and his friends. He decided to do as they suggested."

Case 40d. Inheritance: Estate of A Big Fall By Tripping
Informant: Talker

"There was an only child, a favorite daughter. Three nephews, Echo Of A Wolf's Howl, Little Crow and Old Weathered Tree, also survived him. They hated their 'sister' out of jealousy for her favored position during the fat man's lifetime. Because these men were her 'elder brothers,' they could control the disposition of the estate. They each selected forty or fifty good horses and shot the rest so that there would be none left for her. They killed so many that they lay in the meadow like so many shocks of wheat. They used their superior status to get even with her and she had no redress. If they had not been mean to her, they would have asked her to take some of the horses because her father would not have wanted her to be poor."

When confronted with such a situation as this the only sound interpretation the investigator can make is that inheritance rules were so uncertain

that there was no commonly accepted formula to which retailers of the 428
story could hold fast. Without this unconscious prompter of memory, the 183
truth was soon dissipated and the event is described according to individual notions.

CONTRACT

Rounding out the survey of situations of possible legal significance, 675
attention must be given to the phenomenon of contract wherein a party or parties assumed a definite, but limited, obligation by virtue of agreement. These obligations are not to be confused with such status-obligations as sharing food with one's father-in-law. These latter may be entered upon by acts of agreement such as marriage, but once entered upon they were social and legal duties inherent in the new relations and carried on indefinitely. Standing economic obligations of a reciprocal nature are not "contractual" in nature. Contract is a specific obligation undertaken at a specific time; the contractual arrangement is ended when the obligation has been fulfilled.

In addition to the transfer of medicine powers and the payment of goods to settle a grievance there were other contract situations involving the rendering of personal services. Of these the most usual was curing; the next most important was the undertaking of responsibility to lead a revenge war party. A third was occult prophecy, or seer-seeing. And a fourth was sorcery for hire, or putting the enemy of another person on the spot through evil use of medicine powers. The last is not substantiated by any case material, but was attested by informants. Saddle and arrow making, if done on order, would also come under this heading.

In seeking a medicine man to perform a cure, there were certain solemn 675
steps customarily followed. The proposal and acceptance followed an 756
institutionalized pattern which marked the occasion ceremonially as one of significance. In the first place, it was well to use a "political lawyer" to get the thing done, especially so, if the practitioner sought was a well known medicine man. A friend of the medicine man was known throughout the band as the best person to send to the doctor. The doctor would listen to him with willing ears. The petitioner was also familiar with the ways in which the medicine man liked to have the smoke handed to him and could make the petition smooth in many ways. Such intermediaries received their compensation not from the sick person, but from the doctor, as a share in the gifts received by him.[8]

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[8] The use of a pipe lighting assistant is of limited Shoshonean distribution. Cf. W. S. Park, *Shamanism in Western North America* (Chicago, 1938), p. 127.

675 756 The go-between went to the doctor carrying in the right hand the loaded pipe or rolled cigarette. Before speaking, the emissary lighted the tobacco and puffed a few puffs. Then he told the medicine man what was wanted. Sometimes he added what might be expected in the way of gifts. Then, if he knew the ways of the medicine man, he proffered the smoke. If not, he first asked the medicine man how he would like the pipe handed to him. The medicine man was not universally obliged to accept. But some medicines required acceptance of a commission if the emissaries did certain things. Thus with Break Something, if the emissary circled his tipi to the left before entering, he was bound to accept. But usually a medicine man, if he thought the case too much for him or was not interested, refused to accept the smoke. The acceptance of the proffered smoke bound the contract, and the medicine man set out with the emissary to visit the patient. A curing contract was for four treatments to be given in two days. If at the end of two days the patient were not completely well, continuation for another two days' cure could be arranged, or the doctor withdrew to make way for another practitioner.

Break Something told how a practicing medicine man in an impasse called in consulting specialists. Break Something's medicine enabled him to specialize in pneumonia cases. One medicine man, after two days without success, sent his wife to get Break Something. He went and found the other medicine man waiting with the cigarette. This doctor told Break Something he would like his help in this pneumonia case. He took the smoke. "When medicine men smoked together they were as one doctor." They doctored for two days; first the one medicine man, then Break Something. The patient was cured. But there was no fee-splitting. All pay went to the first doctor. All Break Something got tangibly and immediately was the smoke. However, they had an agreement after that that Break Something could call on the other doctor for assistance at any time if he needed him.

The Comanches aver that medicine men who undertook a cure got paid regardless of the outcome, providing a fee had been agreed upon. But there was at least one exception in fact. Went To See His Son was called upon to doctor a sick man. He performed his cure for two days; the patient got well; the relatives were happy, so they gave Went To See His Son a fine horse. Then the patient died. The horse was a good one and Went To See His Son was running it in races. Then a relative of the defunct patient came and said he wanted the horse back. Obviously, he said, Went To See His Son had not cured the deceased, so he had no right to the horse. But the doctor was fond of the horse and said he was going to keep it; so the relative pulled his pistol and shot the horse dead. Went To See His Son was sorry to lose

the horse, but he didn't do anything. Apparently he did not believe he had 675
an established right to his horse, or we should have seen a more typical 756
Comanche reaction to the killing.

Nevertheless, when no fee had been indicated in advance, Comanche doctors were happy to receive gifts. But the true professional spirit prevailed, for it is said that if people were too poor to give gifts, it was of little concern to the medicine man. "He was glad to help out." But who knows perfection? Some medicine men hid when they thought they were going to be called upon for charity. However, if a female relative of a sick pauper asked the wife of a desired medicine man where the doctor might be, she she was "custom-bound" to tell.

While women were a nuisance in this way, medicine men had another way with others of them. A doctor could dream that if a certain woman came to ask for his help, the sick person would surely get well, providing the woman did his bidding during the cure. This is reputed to have been a not uncommon practice. Some of the more unscrupulous practitioners used it as a ruse to seduce reluctant women of their fancy, we were told. But whether a woman *had* to aid, or what she received for it, could not be determined.

On the other end of the contract, what happened when the promised fee was not given after the cure had been made? The Comanche practitioners were without legal means of restitution.

A Comanche of mean disposition would in native opinion have had recourse to sorcery, "but the honorable medicine man would forget it." Persons who failed to pay explicit fees, however, were the ones the doctors dodged, while the creditor medicine man never again took a case for the defaulters. The result was a normal, but guild-manifestation, of Malinowski's principle of withdrawal of reciprocal services in reprisal for deficiency of conduct.

The sale and transfer of supernatural powers among the Comanches was 675
a form of contract in incorporeal property rights. As between close friends 756
and relatives the offer and acceptance was informal and direct. It was when
an ambitious youth yearned to purchase power of a strong medicine man 425
with whom he had no close kinship that more formal steps were taken. First steps were taken by the neophyte's mother. She approached the head wife of the shaman. The woman thought it over. Then she learned from her husband what gifts would be required to satisfy him. These she described in detail to the mother at a later time. Anything within reason could be asked for, for "no matter what it costs them, they are going to have that medicine."

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When the proper gifts had been collected, the boy's father loaded them upon a horse; he led it to the medicine man's lodge and tethered it a short way east of the tipi. Walking about the tipi counterclockwise in ceremonial custom, he passed through the door to be recieved by the shaman. Sitting by the medicine man at the west side of the lodge, the father offered smoke and stated the purpose of his visit. If the medicine man took the smoke it was an acceptance and the deal was closed.

The "sale" of power, it should be added, was not an alienation of the right of the original owner to use it himself. Our closest analogy is the revelation of a trade secret, use of which requires special talent. What the "seller" did was to prepare the neophyte in such a way that the guardian spirit of the medicine man would provide a vision visitation in which the power itself would be bestowed. No mortal could give supernatural power. He could merely lend his influence to lead to a cut-in.

The purchase of medicine was only a start on the road to success for young men. The most potent powers were never shared. Indeed, it was only when a shaman had more than one medicine that he was willing to sell an access to one of them. Then it was always his poorer. The presumable motivation is that prestige rests in rarity.

CONCLUSION

In treating of the historical background of the Comanche tribe the 178
evidence for a recent Shoshonean derivation of the Comanches has been 181
indicated. In the years since the time of the separation from other Shosho- 171
neans, Comanche culture had undergone adaptive modifications to such an extent that Clark Wissler had dubbed the Comanches a "typical Plains Indian tribe."[1] If one views only the material culture of the tribe, this is true, for in their buffalo economy and nomadic life with the use of the horse for transportation, the Comanches were as any other Plains tribe. In their basic militarism they were conspicuously Plains, though they had not gone far enough to adopt a well-developed system of military societies (in which they are decidedly non-typical). Loose political organization is typical of the Plains area; yet the Comanches were more unpolitical than most. In religion the Comanches shared only to a very slight degree the colorful group ceremonialism of the Plains tribes, while the individual guardian spirit complex is as fully Shoshonean as it is Plains. It is not understatement to say that the Comanches represented Plains culture in its rudest form and that where it was most rude it was most Shoshonean.

Something of the historical trend of Comanche culture may be revealed by reference to the Shoshone base from which nineteenth century Comanche society had grown. This will be attempted for Shoshone-Comanche politico-legal practices.

Without expecting an absolute correlation of Comanche history to a linear trend, an approximation of the levels of Comanche development can be reasonably derived from the comparative presentation of the pertinent facts from the Western Shoshone, the Northern Shoshone, the Wind River Shoshone and the Comanche. Taken in order, the geographical spacing of the peoples mentioned is from the heart of the Basin-Plateau area towards and into the Plains. Culturally, the movement is from archaic Shoshone (Western) to Shoshone modified by Plains influence (Northern) to Plains with heavy Shoshone vestiges (Wind River) to "typical" Plains with submerged Shoshone vestiges (Comanche). In the same direction the trend has been specifically from small particularistic local groups founded on the bilateral family principle over to large, permanently organized bands within which bilateral family organization is present but unimportant; from an absence of "chiefs" over to institutionalized band peace chiefs. In military activity with all its implications the trend was from complete unwarlikeness over to exuberant militarism. In law the movement is seen to have

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[1] Clark Wissler, *North American Indians of the Plains* (New York, 1927), p. 13.

178 been from a neutral condition without institutionalized legal forms to the
181 establishment of such mechanisms as have been described for the Comanche.
171 Comanche culture underwent dynamic development in a relatively short span of time, developing political and legal institutions of functional importance where scarcely any had existed before.

A tabular synopsis of the facts will make this clear.[3] See pp. 131–134.

The causal factor of greatest importance in the metamorphosis of the eastern Shoshone groups was the adaptation of social life to the horse complex. This provided a widened hunting range and the procurement of buffalo, with the result that larger aggregations of population could be supported in integrated units. The result was the band. Raids and military pressure from the plains provided example and defensive motivation for the simulation of the Plains war complex. Only the Comanches wholly succeeded in this. The Basin Shoshone suffered a defeatist psychology; they are sincerely grateful to the *Pax Americana*. To them personal bravery status was unimportant and there was no compulsion for a wronged party to save his face by demanding or taking restitution. Not so the Comanches, to whom ego satisfaction in competitive bravery struggles had become all-important. The military complex so colored all of tribal values that every man responded to the stimulus when wronged. From one point of view Comanche law was a struggle for preservation of status between individual males. Yet it was more than that, for in the institution of the champion-at-law, based though it is on the intermediary's desire to hold high his personal prestige, the Comanches had leaped ahead in a striving for an equitable defense weapon for the aggrieved weakling. This is justice.

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[3] Data for the Western Shoshone are derived from the following sources: Julian Steward, *Basin-Plateau Aboriginal Sociopolitical Groups* (Bureau of American Ethnology, Bulletin 120, 1938); *Ethnography of the Owens Valley Paiute* (University of California Publications in American Archaeology and Ethnology, vol. 33, 1933), pp. 230–250; *Linguistic Distributions and Political Groups of the Great Basin Shoshone* (American Anthropologist, vol. 39, 1937), pp. 625–634; Willard Park, *Shamanism in Western North America* (Evanston, 1938); and Others, *Tribal Distribution in the Great Basin* (American Anthropologist, vol. 40, 1938), pp. 622–628; Isabel T. Kelley, *Ethnography of the Surprise Valley Paiute* (University of California Publications in American Archaeology and Ethnology, vol. 31, 1932), pp. 67–210; R. H. Lowie, *Notes on Shoshonean Ethnography* (American Museum of Natural History, Anthropological Papers, Vol. 20, 1924), pp. 187–314; Jack Harris, unpublished data on the White Knife Shoshones; M. K. Opler, unpublished data on the Southern Utes. Data for the Northern Shoshone are from the field investigations of the author and F. Gore Hoebel, summarized in Appendix A of this memoir. Also, R. H. Lowie, *The Northern Shoshone* (American Museum of Natural History, Anthropological Papers, vol. 2, 1909), pp. 169–306; E. A. Hoebel, *Comanche and Hȝkandika Shoshone Relationship Systems* (American Anthropologist, vol. 41, 1939), pp. 440–457; *The Sun Dance of the Hȝkandika Shoshone* (American Anthropologist, vol. 37, 1935), pp. 570–581; *Bands and Distributions of the Eastern Shoshone* (with Verne Ray and Others, in *Tribal Distribution in Eastern Oregon and Adjacent Regions*, [American Anthropologist, vol. 40, 1938], pp. 384–415). Data on the Wind River Shoshone are from unpublished materials generously supplied by D. B. Shimkin.

	Western Shoshone	*Bannock Creek Shoshone*	*Wind River Shoshone*	*Comanche*
I. Communal Organization and Practices				
Bilateral family as preponderant local group.	Regular.	Occasional.	Rare.	Rare.
Cohesive and definite band organization.	Mostly limited to winter villages.	Regular, for the most part.	General.	Ubiquitous.
Tribal organization.	None.	None.	?	Notable consciousness of tribal identity; but no formal tribal organization.
Civil leadership.	Family headman, village headman.	Band peace chief, some with camp crier; family headman for small groups; no juridical authority.	?	Band peace chiefs with camp criers; no juridical authority.
Warfare.	Rare; no institutionalized military pattern.	Unsuccessful simulation of Plains war complex; war leaders; coup and scalp.	Plains type warfare with bravery status; coup and scalp.	Plains military ideal dominant; war chiefs; coup and scalp; bravery status for males.
Horses.	None.	Few.	Numerous.	Multitudinous.

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	Western Shoshone	*Bannock Creek Shoshone*	*Wind River Shoshone*	*Comanche*
Communal hunts.	Occasional ritual drives for antelope and rabbits.	Buffalo hunts on the plains with support of allies.	Annual buffalo hunts.	Annual buffalo hunts.
Hunt police.	No police; direction by shaman.	Special police organized for the occasion.	Organized police, becoming permanent in two military fraternities.	No police.
II. Offenses with "legal" sanctions.				
Public delicts, "crimes."	None (?).	1) Cannibalism. 2) Violation of the rules of the communal hunt.	Violation of the rules of the communal hunt.	Excessive sorcery.
Private delicts, "wrongs."	1) Abduction of females. 2) Homicide (?).	1) Gang rape. 2) Adultery. 3) Wife abduction. 4) Homicide.	1) Adultery. 2) Wife absconding. 3) Wife abduction. 4) Homicide (?).	1) Adultery. 2) Wife absconding. 3) Violation of levirate. 4) Sorcery. 5) Killing a favorite horse. 6) Homicide.
III. Procedure and Sanctions in the Law-ways.				
In abduction and gang rape.	Offender runs the gauntlet; or, mass brawls.	Apparently, no institutionalized reactions.	—	—

	Western Shoshone	*Bannock Creek Shoshone*	*Wind River Shoshone*	*Comanche*
In adultery.	?	Either, no action against the male; or else, attempted homicidal attack. Mutilation of the wife by the husband.	Occasional attempt to kill the male offender by sorcery, sometimes no action attempted, other times horses of male offender are killed or mutilated. Female may sometimes be killed or mutilated.	Restituitive damages collected from male offender. Female regularly mutilated, sometimes killed by the husband. "Third degree" and "sun-killing" used to obtain confession.
In wife absconding.	?	Either, no action; or else, attempted homicidal attack on the male offender, the female, or both.	Sometimes no action, otherwise attempt on life of male offender through sorcery or homicidal assault. Occasionally, restituitive damages received in settlement (the wife may be either recovered or released in this event). There is no predictability as to which of the above courses will be followed.	Restituitive damages recovered from male offender; wife may be recovered or released by husband; or, horses of the male offender may be killed or mutilated. Husband may kill or mutilate his wife if he fails to release her.

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	Western Shoshone	*Bannock Creek Shoshone*	*Wind River Shoshone*	*Comanche*
In sorcery.	?	No sorcery (?).	Counter sorcery.	Aggrieved resorts to counter magic through his own powers or those of a hired shaman. Or, relatives threaten physical violence to the sorcerer, in which case he may resort to the conditional curse.
In killing of a favorite horse.	—	?	?	Probable retaliation on horses of offender. Possible mutilation of sister of offender, or homicidal attack on offender.
In homicide.	Retaliation uncertain.	Retaliation uncertain.	Probable retaliation, no continuing feud.	Retaliation on killer; no feud.

1: Hoebel E-5 (1933) 1940 NO6 Comanche

Northern Shoshone NR14

APPENDIX A

NOTES ON THE POLITICAL-JURIDICAL BEHAVIOR OF THE NORTHERN SHOSHONE

Representative of the Northern Shoshone are the Bannock Creek Shoshone[1] at Ft. Hall, Idaho. 621 In the middle of the last century they were loosely organized into a band with peace and war chiefs; though given mostly to seed-gathering, they went on buffalo-hunting excursions, and they had some horses. Though less prosperous than the Lemhi and Salmon River Shoshone described by Lewis and Clark, and later by Professor Lowie,[2] in essentials of social life and organization they are similar.

The bonds of the Bannock Creek band were not tight. Small camps of bilateral families, each focussed about the leadership of an active male relative, were prone to locate in isolation from time to time, especially if the urge to travel out of the traditional territory within the confines of Bannock Creek laid hold of the family group. For the greater portion of the people, and for the greater part of the year, however, the band moved together as a nomadic unit.

The nominal leader of the band was the peace chief, who was called 622 tégwɔni. This can be prosaically translated, "talker," but the word in fact carries a fuller freight of colorful overtones. To the Shoshone mind it means, "good talk thrown out to the people." As public adviser, the Shoshone peace chief was functionally more active than his Comanche counterpart who was partially eclipsed by the war chief. Each morning he delivered an eloquent harangue to his people, always including in it a warning against wastage of food, reminding them that bad times were surely ahead. The main overt social function of the Shoshone band leader seems to have been to act as the consolidator of group will power—to place a check on the powerful desire to gorge when a surplus of food was at hand. More positively, he directed camp movements. This required an intimate knowledge of the botanical characteristics of the band habitat, for the leader was expected to know just when and where the various seeds and nuts would be

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[1] In previous publications of data from the Bannock Creek Shoshone (American Anthropologist, 37, pp. 370–381, 1935; *ibid.*, 41, pp. 440–457, 1939) I have used the local native name Hɜkandika, or Seed Eaters. Steward has revealed the confusion which results from the practice of using local native names in Shoshone ethnology and has suggested the title Bannock Creek Shoshone for the group I am here reporting. Cf. Julian Steward, *Some Observations On Shoshonean Distributions* (American Anthropologist, vol. 41, 1939), p. 263. Henceforth, Steward's nomenclature will be followed.

[2] Meriweather Lewis and William Clark, *History of the Expedition of Captains Lewis and Clark, 1804–5–6* (2 vols., Chicago, 1902), vol. 1, pp. 450 ff. R. H. Lowie, *Northern Shoshone.*

622 ready for harvesting. Some band leaders utilized a personal announcer to [624] harangue for them. Such were known as tégwɔniwʌp, in which the wʌp suffix indicates "specialist." The peace chief was expected to possess the usual qualities of wisdom, gentleness, good humor, kindliness and the ability to command respect for his judgment. His powers were entirely non-coercive and he had no judicial authority.

It may be remembered that no generic etymological significance could be found for the Comanche name for their peace chief—namely, páɹaiβo. The Comanche tékniwʌp, war leader, is directly derived from the Shoshone peace chief term, though corrupted in meaning.

624 The war leader institutionalization had also worked into the Shoshone culture. Men who qualified by attaining martial reputations were dubbed náβedink tɛgwɔni, "in fighting, good talk thrown out to the people." Unlike the Comanche, however, the Shoshones were never able to overcome the handicap of their original pacifism, for when the northern tribes of the Plains were receiving fire-arms from the British and French imperialists, these Indians were denied the weapons which might have given them a chance in combat, because the Spaniards with whom they had a limited intercourse, refused them guns on the ground that they "might hurt themselves with them."[3]

701 428 The feeble Shoshone efforts towards militarization of male behavior were doomed to failure. The coup pattern was aped, but few men could lay claim to coups. The scarcity of coup-making opportunities was so great that the Bannock Creeks improvised an adjustment which probably occurred no where else in America. Only two men were allowed to count coup struck on the same victim, but others could also strike the victim for the future privilege of claiming the coup. When the first two holders of the coups taken on a victim had died and were no longer present to utilize their claims, then the coups counted by those who had struck after them became valid and could be recited. But only two persons at any one time could have a recognized claim to the coups. Thus the coups passed successively down the line of those who had touched the body. A lawyer might in these instances think of an *interest expectant*, after a prior *life-estate*.

701 714 Lewis and Clark, though they describe the attire of the Lemhi Shoshone warrior in great detail, make no mention of the feathered war bonnet.[4] By the last half of the 19th century, however, the feathered war bonnet was generally affected by Shoshones in eastern Idaho. It bore absolutely no relation to coups or the wearer's war status, but was instead nothing more

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[3] Lewis and Clark, *Expedition*, vol. 1, p. 449.

[4] *Ibid.*, pp. 456–457.

1: Hoebel E-5 (1933) 1940 NO6 Comanche

Northern Shoshone NR14
Wind River NQ19

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It bore absolutely no relation to coups or the wearer's war status, 701
but was instead nothing more
than an expression of the owner's vanity.[5] The war bonnet trait was taken 152
over from the Plains culture without a realization of its function in the war 714
complex.

With personal prestige rating not a matter of great moment for the Shoshone males, N [554] a compulsion to take action when victimized by the aggression of a fellow Shoshone was not developed. N 684 There was, as will be shone, no predictability as to whether any action would be taken in any Shoshone case. In numerous instances among the Bannock Creek people no issue was made of wife absconding or adultery. White Man's Son, for example, did nothing when a good-looking young shaman ran off with his wife. Or even more striking is the abduction of the wife of Red Son by Weaver. Weaver took the woman over the divide, where they lived for some time among the Wind River Shoshone. Red Son made no attempt to follow them. After eight years, or so, the pair returned to the Snake River. Red Son ignored them, but his son by the erstwhile wife accepted Weaver as his father.

On the other hand, the reaction of the aggrieved husband sometimes turned out to be most violent. The wife of No Testicles deserted him to flee south to the Shoshone in the vicinity of Salt Lake. No Testicles called his N friend, Dunking, to go with him. They trailed the fugitives until they spied [572] the smoke of their camp fire. Creeping cautiously upon the camp, they laid an ambush from which they shot down the lover without warning. Leaving the corpse where it fell, they took the woman back to Idaho where she lived N tractably with No Testicles for the remainder of her life. No revenge was [682] taken on the two men for the murder.

In another recorded case, the Shoshone known as Indian John took the same course in murdering the stealer of his wife. No revenge was taken on him. Shoshone informants, when they generalize, declare that the relatives of the slain man ought to have revenged his death, but that they were N afraid to attempt it. Courage and recklessness, when shown, were likely [181] completely to baffle the unwarlike Shoshone. W In a case from the Wind River Shoshone which is well known to the Bannock Creek people, sub- 684 limated revenge was sought in feeble ridicule.

The wife of Water Plant was stolen by another Wind River Shoshone, who started for the Snake River riding double with her on his only horse. W Water Plant called on his friend, Little Gulping As Though Swallowing [572] Water, to join him in pursuit of the pair. They followed the trail until it led them to the lovers' camp. There they ambushed the absconder as he was

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[5] This information as it applies to the Ft. Hall Lemhi Shoshone conflicts with the statement of Steward (*Sociopolitical Groups*, p. 210), who states that the band chief led large war parties and he alone wore an eagle-feather bonnet.

1: Hoebel E-5 (1933) 1940 NO6 Comanche
Northern Shoshone NR14
Wind River NQ19

W 684 butchering a black tailed deer. He was shot in the back without warning. The woman was dispatched in leisure and left to lie beside the body of her lover. The slayers returned directly to Wind River to go about their regular W [682] routine. It was well known what they had done, but their sole reproof was the raillery of the dead man's relatives. "When a man goes hunting," they guyed, "he usually brings something back. Where is all the meat?"

N 684 The type of action indicated in the situations thus far described indicates that the northern Shoshone were inclined to make the defense of of marital rights a matter of individual responsibility, so much so that there was not even a compulsive obligation to blood revenge on the part of the kin group.

N 684 Nevertheless, deadly group brawls could develop from infractions of marital rights.

579 Red Round Object gave the following case:

> Bronco and Little Cottontail Rabbit were camping down on the Port Neuf River philandering with a woman. Her husband was out trapping, but when he came back his little son told on his mother. The old man began sharpening his knife. When it was whetted, he stood before his tipi and called over to the two young fellows, who were racing their horses on a hill-top. They came down from the hill and went into his lodge with him because he talked so nicely to them. They palavered inside until suddenly the old man attacked them with his knife. Bronco escaped from the house. Little Cottontail Rabbit was badly cut and was crying for help. Dry Head Of The Penis, Bronco's mother's brother, rode over when he heard the fracas. Little Cottontail and the old man were now fighting outside the tipi. Dry Head Of The Penis called 'nephew' to the old man.[6] The fighting stopped and as the boys stepped back, Dry Head Of The Penis shot from his horse. The old man dropped dead. At the sound of the shot the erring wife burst from the lodge and threw herself into the river. Dry Head Of The Penis rode over to the bank, took aim and killed her [682] too. Her body floated off down stream. Nothing was ever done to Dry Head Of The Penis, though the son of the murdered old man was wont when drunk to threaten to slay his father's killer. But every time he would wilt when the time for action was at hand.

N 684 605 539 171 The abducting of married and unmarried women by a group of cousins, such as was practiced by the western Shoshone, became metamorphized into gang rapings of "loose" women, according to the Idaho practices described by our informants. Several such cases were recorded, but in none of them was there any defense of the girl by her male relatives. Steward[7] describes abduction of married women and their consequent raping by

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[6] Men who have shared a woman sexually address each other as "brother." The speaker in this case was uncle to the adulterer, hence the aggrieved husband became his "nephew."

[7] Steward, *Sociopolitical Groups*, pp. 214–215.

gangs of cousins, who then turned the female over as wife to the one of their 605
number whom they were assisting to acquire a mate. Gang raping of un- 684
married girls was revealed by the Bannock Creek informants, but not 839
marital abduction in this form. Such techniques were ascribed to the 171
western Shoshone, of whom it was said, "A lone Indian with a good-looking wife would sure have her taken away from him if he visited those Nevada Indians." Northern Shoshones visited no sanctions upon the rapers, according to our information, though Steward writes that free-for-all tussles were engaged in by the abductors and the relatives of the female.

There was for the most part little evidence of a juridical mechanism for 627 settling disputes. A condition of *all or none* seems to have prevailed; the outcome appears to have depended upon personal courage and temperament.

The payment of damages for settlement of wrongs was emphatically 681 denied by the majority of Shoshones. There is no word for the action in their lexicon.

Only two cases of property settlement for wrong could be recorded from 836 the Bannock Creek Shoshone. One arose from the Shoshone equivalent of the Samoan *moetotolo*.[8] Sleep-crawling was done by Shoshone boys who were received in the family tipi of the girl at night while her family slept. Etiquette required only that the lover did not awaken the sleeping members of the household. Darkness and stealth gave reckless youths the chance to steal favors meant for others, a fraudulent wrong, called kwɜ́hɜnai (woman +to make).

Knocking Over was once caught when betrayed by the girl. He would 836 684
tell the story of his predicament for the amusement of others after he had [522]
become an old man. When he was younger he was said to be ashamed to [888]
mention it.

> There was a girl I was enamoured of, I made up to her all the time, but she would have nothing of me. A couple of times I tried to visit her in the moon hut (menstrual lodge), but there was always an older woman to keep an eye on her. One night I stole into her wickiup and lay beside her. I was excited and happy when she embraced me. "Oh, she has changed. She loves me," I thought.
>
> But she was just getting a good hold on me. All of a sudden she let out a yell, "Here is an evil supernatural thing."
>
> Everybody in the lodge bolted up from his sleep. I staggered to my feet with her clinging to me. Oh, I was excited. I couldn't find the door in order to escape. She hung to me and I just bumped around knocking things over. Finally, I stumbled out, and the girl let me go.

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[8] Margaret Mead, *Coming of Age in Samoa* (New York, 1928), pp. 93–95.

1: Hoebel E-5 (1933) 1940 NO6 Comanche

Northern Shoshone NR14

836 684 The next morning her uncle came over. I had to give up my best horse to make him satisfied, and I never bothered that girl again.

In the case of J— and G—, which occurred when the two were young men, they were enticed into intercourse by the young wife of an old man. The old man came with a friend to make the following declaration. "My wife has been running after you. I am an old man and she doesn't want me. She wants you. Give me your race horse and you may have her. Decide now! I don't want any quarrel or trouble; just give me the horse." J— sat with his chin down to his chest saying nothing. His aunt, with whom the boys were staying was surprised into saying, "Why, the boys took food down to somebody by the creek."

"Yes", said J—, "she is down there. You go and take her. I don't want her."

It is clear that the old man in this felt he had no right to damages. It was merely his hope to seize upon the opportunity to make a good trade, and perhaps a good riddance.

684 Northern Shoshone husbands, like the Comanches, could, and did, cut off the noses of unfaithful wives for adultery, if they were so inclined. 626 It is the theory among these Shoshones that an aggrieved husband was privileged to mutilate the horse of an adulterer by putting out the horse's eyes or cutting its leg tendons. "The adulterer had to accept it." Not a single case of such action could be recorded, however. And the action of the Lemhi Shoshone in a case noted by Lowie which occurred on the Lemhi Reservation about 1900 shows how little reality there was in the privilege. The physically strongest man on the reservation shot the horse of his wife's lover. There was notable general resentment which led to the formation of a "vigilante" gang which mobbed the husband, bound him and delivered him to the Agency Superintendant to be tried before the Indian Court (governmental), which in turn gave him a jail sentence.[9] One suspects that the husband had been doing some general bullying to build up a public resentment which seized the occasion to down the object of its resentment, but that such an occasion should be used as excuse is significant.

627 754 So far as could be determined, the use of medicine powers against a fellow Shoshone was not done. There were no sorcery cases to be obtained and so this fertile field of friction for the Comanches did not exist among the northern Shoshone.

627 Oath, conditional curse, and the joking ordeal were not used by the Shoshone.

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[9] R. H. Lowie, *Northern Shoshone*, p. 209.

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Cannibalism arising from starvation was a Bannock Creek Shoshone obsession. Shoshone folklore shudderingly retails the activities of the dʒɔ'aβits, gigantic cannibal ogres who lived in the Saw Tooth mountains. The fear of actual cannibalism had become a folkloristic anxiety. The possibility of cannibalism is not even mentioned by the Comanches, from whose folklore the dʒɔ'aβits had entirely disappeared, though in other respects the mythology of the Shoshone and Comanche are very much alike.

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To the northern Shoshone actual cannibalism was a crime to be punished with death. It was believed that the person who had once tasted human flesh suffered an inordinate craving for more. His skin took on a peculiar hue, so that such persons were altogether dangerous and loathsome. One story is told by the Bannock Creek Shoshone of an occasion when they came upon the deserted camp of another Shoshone group in Utah. Suspiciously, because of the appearance of the camp, they waited before entering the place, until one or two men had scouted it. The scouts found decimated cadavers and human bones in the wickiups, and in the largest they found an emaciated "chief" and his wife gnawing human bodies. These were the sole survivors of a devastating famine. When the scouts reported their gruesome news, there was much excitement amongst the outside Shoshones. They quickly agreed that the pair should be dispatched, and arming themselves with stones, they stormed the grass hut, trampling it down and stoning the hapless cannibals to death.

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The father of Coyote Droppings became a hermit in his later years, living on the banks of the Snake River below the Raft River junction. The notion developed that he was a cannibal, and people talked and talked about him until they finally worked themselves up to decide, "We had better do away with him. He'll eat us up!" Two men were sent down to assassinate him, which they did. Cannibalism was a quasi-crime.

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Combinations of circumstance led the northern Shoshone to consolidation of governmental and legal practices in one field which actually placed them ahead of the Comanches in this respect. They adopted the Plains Indian practice of policing the buffalo hunts in which they engaged. Hazardous invasions of the plains were generally undertaken in the fall of the year after the main seed and nut crops were in. Then the Bannock Creek Shoshones joined with other bands from the vicinity of Ft. Hall, including the Bannocks, to cross the continental divide into the buffalo country (buffalo had become extinct in Idaho about 1840). On occasion, union was joined with the Nez Perce and Flatheads, to increase their defensive power against the Blackfoot or Crow attacks. Military as well as hunting effectiveness was needful for the success of these ventures. To attain this end a small

1: Hoebel E-5 (1933) 1940 NO6 Comanche NO6
Northern Shoshone NR14

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224 number of active middle-aged men were chosen by the hunt leader to act
625 as supervisors for the march and hunt. The Shoshone called these officers tɜ́ɹɔkoni, "those who surround." The personnel of the police changed from hunt to hunt, and in consequence, they did not form a military or dance society. Their functions were clearly defined, but their enforcing powers were limited. While the camps were on the march, they patrolled the cavalcade on all sides in an endeavor to prevent straggling and exposure to enemy attack. When the hunt was about to begin they attempted to hold back the over-anxious ones among the hunters. They gave orders to people and attempted to back up their commands by quirting the face of the rider's horse, "to shame the rider," but they did not strike people, nor could they confiscate or destroy the property of those who ignored their demands. They could encourage, exhort and exert pressure, but they could not apply force. There is no evidence of their having entered into the regulation of tribal matters other than the control of the march and the hunt. Shoshone policing was Plains policing in its most attenuated form, showing none of the governmental pregnancy which is found in the Cheyenne police organi-
C zation, for example.[10]

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[701] It is interesting that the Comanche, who had incipient military associations, had no buffalo police, while the Shoshone, who had no associations,
224 organized police units for the hunt. That the development of policing powers
625 for the duration of the hunt was not a necessity for the tribes on the southern plains is demonstrated by the Comanches, who succeeded quite well without them. But to the northern Shoshones, who faced the double hazard of attack by superior enemies and a possible inadequacy in numbers of available buffalo, the adaptation of the military police to their needs was of patent value. The patterns of limited authority, which were characteristic of the culture, laid their stamp upon the police organization, diluting it to a skeletal imitation of the institution as it existed on the Plains.

C Northern Shoshone culture offers little in a positive way for the study
N of law and government. Its contribution to our knowledge rests mostly on
181 the quasi-anarchistic picture it gives of organization of society on a very rude level of economic and social existence. In relation to the Comanche it throws into relief the background of Comanche amorphism in matters of political organization, at the same time indirectly indicating the dynamic inventiveness of the Comanches in the production of their mechanism of juridical settlements.

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[10] E. A. Hoebel, *Associations and the State in the Plains*, pp. 433–438.

APPENDIX B

INFORMANTS

A. *Comanche*

1. Herman Bluefoot, ésənap. Born of a captive Mexican father and a full-blood Comanche mother, Herman served as our chief interpreter and go-between. Highly respected for his leadership abilities he was ideal in his role, for he never obtruded his personality upon the informant, but served always as a skilfull transmitter of ideas between Comanches and ourselves. Age 50.[1]
2. Eagle Tail Feather, qwásia. A member of the Those Who Move Often Band. Quiet, responsible and respected, one of the most reliable of Comanche informants, inclined however to resist rapport with whites. Age 56.
3. Slope, náyia. Easy going, genial, a Comanche who sees all life in its humorous aspects. Generously helpful with the information he possesses (except the nature of his secret herbs), with his interest in people and things he was capable of providing much anecdotal material. Of the Those Who Turn Back From Raids band. Age 57.
4. Rhoda Bluefoot. Wife of Herman Bluefoot, daughter of a well-known medicine man and warrier. Too young to have had a great deal of experience in the old culture, most of her information was secondary. Her services were as interpreter when working with woman informants. Age 45 (?).
5. Post Oak Jim, (?). An active, unusually extraverted Comanche with a colorful and notorious history, now a famous Peyote leader and singer. A willing and self-regarding informant, but not too reliable in all respects. Of the Those Who Turn Back From Raids band. Age 64.
6. Kowíno, (?). A Yɛ́p Eater. Now deacon of the Mennonite Mission Church, only slightly useful as an informant.
7. Breaks Something, tʃíkoβa. His information centered mostly about his own personal experiences as a medicine man and in damage settlements. A most conscientious informant who provided valuable material. A member of the Antelope band. Age (?).
8. That's It, tasúɹa. One of the finest of all possible informants, unassuming, intelligent and versed with an astounding knowledge of Comanche ways and events. Entirely cooperative and appreciative of the purpose of the study. One of the few surviving members of the Water Horse band. Age 79.

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[1] Age is given as of 1933.

9. Skinny and Wrinkled, tekwítʃi. Interpreter. A Carlyle graduate. Age 45.
10. Gets To Be A Middle-Aged Man, tɛ́nɛβɜkə. An obstinate and tantalizing informant, he is the "greatest" of the living Comanches, for he is the sole surviving member of the band of five warriors who stole all the 121 horses from the U. S. Cavalry at Ft. Sill in 1871. Buffalo Eater band. Age 89.
11. Get Your Neighbor, nɜ́mɜɹuiβɛtsi. An effective woman informant from the Swift Stingers band, she gave much comprehensive information. Age (?). Her name is also translated as Visits Her Relatives.
12. Holding Her Sunshade, hɜkiyáni. Captured as a seven year old child in a Comanche raid upon her schoolhouse in old Mexico, she has lived through a fantastic life history and at the age of 90 survives with her very active 75 year old daughter, born of a Comanche chief. A capable informant.

A number of other informants were consulted incidentally in the course of the investigation. Those listed above include the persons whose information was pertinent to the preparation of this memoir. (Informants used by Dr Mirsky are not included in the above given list.)

APPENDIX C

PHONETIC TRANSCRIPTION OF INDIAN NAMES

(International Phonetics Association Symbols)

Comanches

551
104

A Big Fall By Tripping	piáɹɜpsima
Barking Buttocks	wítawɔwɔki
Bay Mare	óhapia
Bone	tsúnip
Been To See His Son	patuáwunikwai
Blow It Away	pɔ'aika
Breaks Something	tʃikova
Brother-in-law	ƫɜ:tɜ:
Brown Robe	ɔ'tiahɜ
Buffalo	ƫásiwɔ
Buffalo Robe	yóniakʌt
Bull Roarer	wɜ'kɜβuβi
Bull Elk	páɹuakum
Carrying Something Under Her Belt	saídja
Chew Up	kútskwip
Cliff	tɜ'panai
Cooks Dried Meat	kúkap
Coals In A Wood Fire	kútu
Crazy Bear	ísawɜɹa
Crowds Somebody	wútsuki
Dry Tipi	pákikani
Eagle Tail Feather	kwásia
Echo Of The Wolf's Howl	ísɛnanika
Gets To Be A Middle-Aged Man	ƫénɛβɜkə
Grey Flat Lying Object	ésihaβit
Holding For Fun	ƫʌ'sʌtsai
Holding Her Sunshade (Carrying Her Sunshade)	hɜ'kiyani
Little	ƫɜ':ta
Little Medicine	tɜ'βowakʌt
Looking	púnita
Looking For Fun	ƫɜ'sɜtsaponi
Mangey Coat	tásiaβɔkuɹawa

1: Hoebel E-5 (1933) 1940 NO6 Comanche NO6

Northern Shoshone NR14

C
551
104

Narrow Gut	kóhi
No Bed	kápewat
Pepper	tʃíeɹa
Red Young Man	ékawɔkani
Robe On His Back	kwáhiʒa
Rocky Creek	ţʒ'piwnʒ
Salt Worn Out	ónawia
Short Dress	cítaɹa
She Invites Her Relatives (Gets Her Neighbors)	nʒ'mʒɹuiβɛts
Skinny and Wrinkled	ţɛ'kwitʃi
That's It	ţásuɹa
Thunder	pɔ'tsensuap
Touch With A Closed Fist	tɔ'kwia
Tongue	ékon
Traveller's Road	nɔ'βɔik

N *Shoshone*

551
104

Climber	tɛ'ndoi
Coyote Droppings	húgwidʌp
Dunking	tɔ'stagwa
Dry Head Of The Penis	pásakant
Knocking Over	ţɔ'ani
Little Cottontail Rabbit	ţáβutsi
Little Gulping As If Swallowing	kúnutsi
Little Old Man	wúwutsi
Lost	wáʃiki
Noseless	múβiwʌt
No Testicles	nɔ'yɔwʌt
Red Son	ɛ'ngaţua
Red Round Object	ɛngaβɔ'nɛkə
Water Plant	paínaitə
Whispering Voice	sɔ'yɔkant
White Man's Son	taíβoandua

APPENDIX D

INDEX TO CASES

coc

Title	*Case Number*	*Page*
Adultery: Husband slays boy's pony Informant: That's It	4	50– 51
Adultery: Husband collects damages through wife Informant: Visits Her Relatives	5	52–
Adultery, Homicide: Procedure breaks down Informant: Post Oak Jim	6	52–
Adultery: Buffalo Robe vs. Cliff Informant: That's It	10	58–
Adultery: Whipping waived by warrior Informant: Post Oak Jim	11	58– 59
Adultery: Bone vs. Cómatsit Informant: Visits Her Relatives	28	97–
Adultery: Defendant denies guilt and is shamed Informant: Slope	29	98–
Adultery: Medicine man uses magic Informant: That's It	31	101–102
Adultery and Retaliation: Gets To Be A Middle-Aged Man Informant: Gets To Be A Middle-Aged Man	37	113–
Conditional Curse: Looking For Fun vs. ? Informant: That's It	30	100–101
Crow Tassel Wearers, a history of Informant: Talker	2	31– 33
Grave Robbery Informant: Slope	36	112–
Homicide (see Murder)		
Homicide, accidental Informant: White Wolf	19	76–
Homicidal Assault: Brown Robe vs. Crazy Bear Informants: That's It and Visits Her Relatives	16	71–

000

Title	*Case Number*	*Page*
Horse Slaying and Murder: Pepper vs. Múβa Informants: That's It, Talker	14	68– 69
Horse Slaying and Murder: Rocky Thorn vs. Crowding a Person Informant: That's It	15	69– 70
Illegitimacy Informant: That's It	33	107–108
Incest Informant: Talker	34	108–110
Inheritance: Estate of A Big Fall By Tripping Informant: Gets To Be A Middle-Aged Man	40	124–
Land Dispute Informant: Eagle Tail Feather	8	55–
Levirate Claim: Mexican vs. Breaks Something Informant: Breaks Something	9	55– 56
Murder: Cooks Dried Meat vs. Pítsku Informant: Talker	13	66– 67
Murder of Sister-in-law: Lost vs. (His nephews) Informant: Post Oak Jim	17	74–
Murder: Wife destroys husband Informant: Talker	18	75–
Oath: Coup substantiated Informant: That's It	32	105–
Peacemaking, with the Utes Informant: That's It	3	36–
Rape: Blow It Away Informant: Holding Her Sunshade	35	111–
Sorcery: Story of a contest Informant: Breaks Something	21	80–
Sorcery: Post Oak Jim repels a curse Informant: Post Oak Jim	22	88–
Sorcery: Bull Elk vs. Barking Buttocks Informant: That's It	23	89– 90

Title	*Case Number*	*Page*
Sorcery: ? vs. Looking After His Son Informant: Eagle Tail Feather	24	91–
Sorcery: Salt Worn Out vs. Robe On His Back Informant: Carrying Her Sunshade	25	92–
Sorcery: ? vs. No Bed Informant: Carrying Her Sunshade	26	93– 94
Sorcery: Chew Up vs. Bull Roarer Informant: Talker	27	94– 95
Sorcery, excessive: People vs. (?) Informant: Post Oak Jim	20	78–
Sorcery, excessive: People vs. (?) Informant: Slope	20a	79–
Sorcery, excessive: People vs. (?) Informant: Talker	20b	79–
Suicide: Mother of abandoned boy Informant: That's It	38	114–115
Suicide: Thunder and Rocky Creek Informant: Talker	39	115–116
War Chief, the making of Informant: That's It	1	26– 28
Wife Absconding: Husband sends old women to collect Informant: Rhoda Bluefoot	7	53–
Wife Absconding: Red Crooked Nose vs. a young warrior Informant: Visits Her Relatives	12	62– 63

1: Hoebel NO6 Comanche NO6
627

/For informal ingroup justice, see Category 116, pp. 51-66, 69-76, 78-79, 85-106 --Analyst/